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No. 9, ORIGINAL

In the Supreme Court of the United States

OCTOBER TERM, 1967

UNITED STATES OF AMERICA, PLAINTIFF,

v.

STATE OF LOUISIANA, ET AL.

Response and Opposition of the State of Louisiana to the Counter-Motion by the United States for Entry of a Supplemental Decree No. 2 and Alternative Motion for Entry of Supplemental Decree No. 2;

Memorandum in Opposition to the Counter-Motion of the United States and in Support of the Alternative Motion of Louisiana; and

Alternative Proposed Supplemental Decree No. 2.

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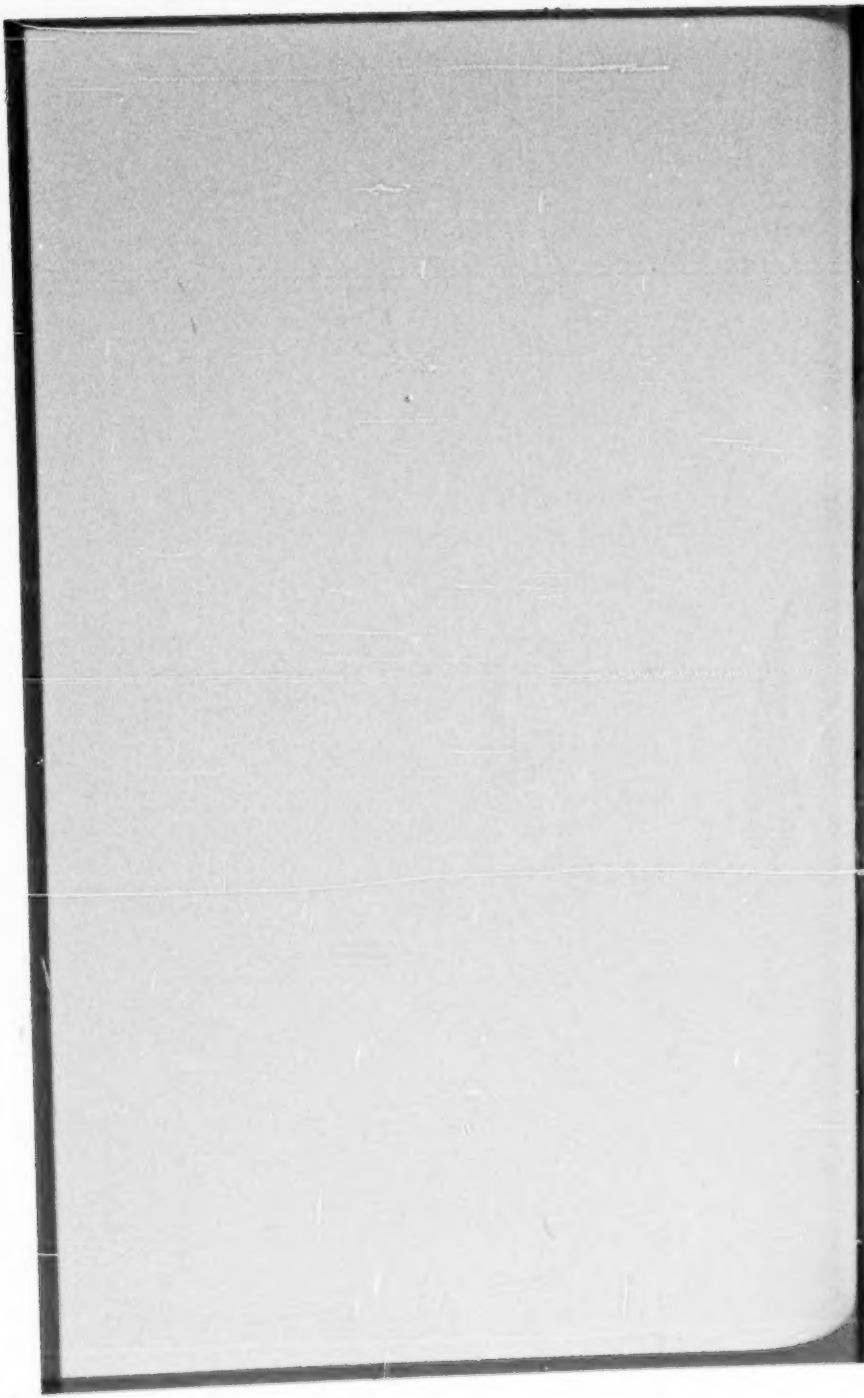

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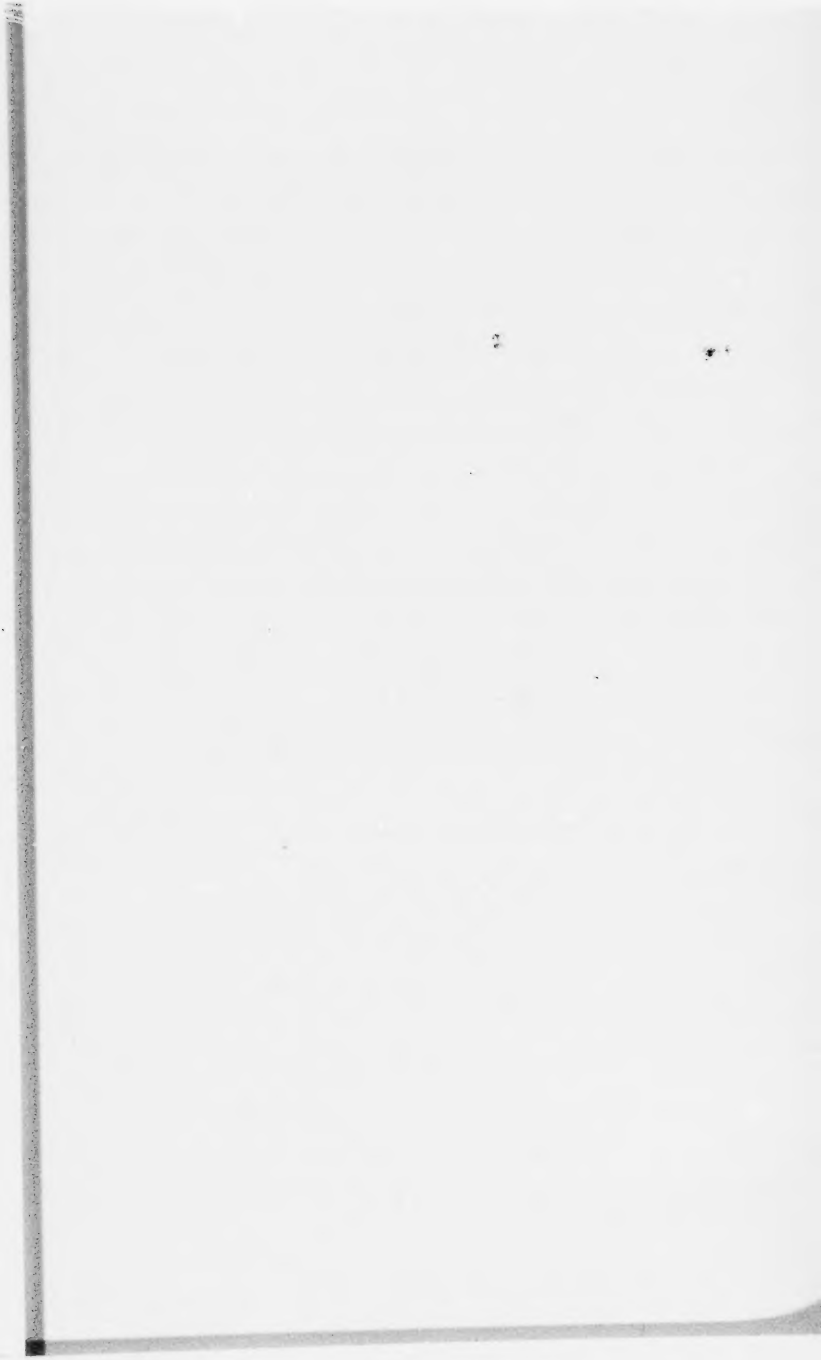

In the
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OCTOBER TERM, 1967

No. 9, Original

UNITED STATES OF AMERICA, PLAINTIFF,

v.

STATE OF LOUISIANA, ET AL.

RESPONSE AND OPPOSITION OF THE STATE OF LOUISIANA TO THE COUNTER-MOTION BY THE UNITED STATES FOR ENTRY OF A SUPPLEMENTAL DECREE NO. 2 AND ALTERNATE MOTION FOR ENTRY OF SUPPLEMENTAL DECREE NO. 2

(1) The decree of this Court rendered herein December 12, 1960, declared that Louisiana is entitled, as against the United States, to the lands, minerals, and natural resources of the submerged lands landward of a line three geographical miles seaward of its coast line. The Court reserved jurisdiction to issue such further decrees as might be necessary to give force and effect to the decree and postponed until a later time a determination of the coast line from which the three-mile boundary of Louisiana was to be measured.

(2) On September 25, 1967, the State of Louisiana filed in the Court a motion for a supplemental decree recognizing the coast line of Louisiana under the Submerged Lands Act to be the line designated and defined by the federal government pursuant to the Act of Congress of February 19, 1895, as amended, and

accepted and approved by the State of Louisiana by Act No. 33 of 1954 (the Inland Water Line).

(3) The United States, in pleadings filed January 3, 1968, opposed the motion of Louisiana and submitted its own motion for a decree locating the coast line.

(4) In response to the counter-motion of the United States, the State of Louisiana reaffirms its position that the Inland Water Line is the coast line of Louisiana for purposes of the Submerged Lands Act and opposes the counter-motion of the United States.

(5) If the Inland Water Line had not been designated and defined by the federal government and accepted and approved by the State of Louisiana it would now be necessary to determine a coast line based on the rules of the Convention on the Territorial Sea and the Contiguous Zone and other relevant and applicable rules. That the Inland Water Line has been drawn and accepted makes this task unnecessary.

(6) If the rules of the Convention and other rules were applicable, Louisiana submits that their interpretation and application would not result in the coast line proposed by the United States but would require the delimitation of a coast line in large part more seaward than that urged by the United States.

(7) For the above reasons Louisiana opposes the line delineated by the United States. And, since Louisiana does not agree with the general provisions contained in the United States' proposed decree, it also

opposes the remainder of the decree submitted by the United States.

(8) In the event the Inland Water Line as described by Louisiana in its original motion is not recognized as the coast line of Louisiana for purposes of the Submerged Lands Act, Louisiana submits herewith an alternative supplemental decree for consideration by the Court. As the Court is requested to issue a decree with respect to the entire Louisiana coast line rather than a portion, definitions are not properly to be contained in the decree and are omitted by Louisiana.

Respectfully,

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UNITED STATES OF AMERICA, PLAINTIFF

v.

STATE OF LOUISIANA, ET AL

MEMORANDUM IN OPPOSITION TO THE COUNTER-MOTION OF THE UNITED STATES AND IN SUPPORT OF THE ALTERNATIVE MOTION OF LOUISIANA

INTRODUCTION AND STATEMENT OF POSITION

The present proceedings were initiated by the State of Louisiana to settle the long-standing controversy between it and the United States over the ownership and control of the submerged lands underlying inland waters and the Gulf of Mexico off Louisiana, a dispute now centering on the location of the coast line from which to project the boundary of Louisiana under the Court's decree of December 12, 1960, 364 U.S. 502. Specifically, Louisiana moved for a supplemental decree (1) recognizing the coast line of Louisiana to be the line designated and defined by the federal government under Congressional authority and accepted and approved by Louisiana Act No. 33 of 1954 (the Inland Water Line); and (2) locating Louisiana's boundary under the Submerged Lands Act at 3 miles from the

coast line thus designated, defined, accepted, and approved.[1]

The United States responded to this motion opposing the Inland Water Line. Taking the position that this Court's decision in *United States v. California*, 381 U.S. 139, limited the Court's function in this case to an application of the baseline rules of the Convention on the Territorial Sea and the Contiguous Zone, 15 U.S.T. (Pt. 2) 1606, and other rules euphemistically termed "elaborations and modifications" of the Convention, the United States moved for a comprehensive supplemental decree demarking the coast line according to its interpretation of the Convention (with modification) and called upon Louisiana to respond to the motion by specifying its objections to the decree beyond its preference for the Inland Water Line.

In response to the motion of the United States, Louisiana herein affirms that the line designated and defined by the federal government under Congressional authority and accepted and approved by the State of Louisiana is the coast line of Louisiana for purposes of the Submerged Lands Act, as Louisiana has shown in its original motion and will show more fully in its brief to be filed herein. We therefore view the rules sought to be applied by the United States as irrelevant to the determination of the Louisiana coast line.

Congress always has recognized that Louisiana has extensive bays and sounds and that the Gulf of

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[1]The proposed decree is included herein as Appendix A, p. 94.

Mexico or high sea does not hug the Louisiana shore. By Act of April 21, 1806, 2 Stat. 391, Congress authorized the Secretary of the Treasury

> to cause a survey to be made of the sea coast of the Territory of Orleans, from the mouth of the Mississippi to Vermilion Bay, inclusively, and as much further westwardly as the President of the United States shall direct, *and also of the bays, inlets, and navigable waters connected therewith:* . . . . (Emphasis supplied)

By Act of February 10, 1807, 2 Stat. 413, Congress authorized the President to cause a survey to be taken of the *coasts* of the United States. On December 20, 1810, while the Senate was debating passage of the Louisiana Enabling Act, two Senate Resolutions were adopted requesting the President and the Secretary of the Treasury, respectively, to report to the Senate the proceedings and measures taken in execution of the Acts of February 10, 1807, and April 21, 1806. *See* 22 *Annals of Congress* 27 (1810).

President James Madison transmitted to the Senate a report complying with the Resolution of December 20, 1810, and a report of the Secretary of the Treasury on the survey of the coast of the Territory of Orleans, together with survey documents relative thereto; both reports and documents were ordered printed on February 4, 1811, for the use of the Senate. *See* 22 *Annals of Congress* 116 (1811).

Only sixteen days later, on February 20, 1811, the Enabling Act for the Territory of Orleans was enacted

by Congress with a description of its territorial limits identical to that contained in the later Act of Admission of April 8, 1812. There is no reference to "shore"; there is reference to "coast." [2] Plainly, the Senate called for reports of the surveys authorized in 1806 and 1807 while it was considering the Enabling Act so as to know the territorial claims of the United

---

[2]The enabling act, Act of February 20, 1811, 2 Stat. 641, which established the boundaries for what was to be Louisiana is as follows:

> *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the inhabitants of all that part of the territory or country ceded under the name of Louisiana, by the treaty made at Paris on the thirtieth day of April, one thousand eight hundred and three, between the United States and France, contained within the following limits, that is to say: beginning at the mouth of the river Sabine, thence by a line to be drawn along the middle of the said river, including all islands to the thirty-second degree of latitude; thence due north, to the northernmost part of the thirty-third degree of north latitude; thence along the said parallel of latitude to the river Mississippi; thence down the said river to the river Iberville; and from thence along the middle of the said river and lakes Maurepas and Pontchartrain, to the gulf of Mexico; thence bounded by the said gulf to the place of beginning: including all islands within three leagues of the *coast*, be, and they are hereby authorized to form for themselves a constitution and state government, and to assume such name as they may deem proper, under the provisions and upon the conditions herein after mentioned. (Emphasis to "coast" supplied)

The Act of Admission of the State of Louisiana into the United States, Act of April 8, 1812, 2 Stat. 701, contains an identical boundary description.

States with respect to the territorial boundary to be finally defined for the Territory of Orleans and later for the State of Louisiana. Congress made the distinction between a coast line and a shore line; this it has continued to do in the Submerged Lands Act of 1953.

This was not done casually, but considerately, explicitly, and after considerable debate on this very point. The legislative history of the Submerged Lands Act bears this out.

The Senate Interior Committee and the House Judiciary Committee which held hearings on the Act knew full well the meaning of "coast line." The Senate Committee went into detailed examination of the difference between "shore line" and "coast line" in its hearings in 1953. While Attorney General Brownell was testifying, he was questioned at length on this subject. *Hearings on S.J. Res. 13 and Other Bills Before the Committee on Interior and Insular Affairs of the Senate*, 83d Cong., 1st Sess. 925-65 (1953):

> Attorney General Brownell. The traditional 3-mile limit would be an accurate description.
>
> Senator Anderson. It is very important that we know *out from what*. Out from the *coastline or the shoreline?* The Holland bill says the coast. [p. 931]
>
> . . .
>
> Attorney General Brownell. The general description *we would use* is *the shoreline.*
>
> Senator Anderson. Shoreline. *You recognize*

that that is completely different from the language in the Holland bill and the Daniel bill?

Attorney General Brownell. I believe you are correct in that statement. [p. 932]

. . . .

Senator Anderson. I could not agree with you more, General Brownell, and I think if somebody came in with a line drawn that was *3 miles from the shore, it might be one thing;* but *3 miles from the coast,* if the coast is nebulous and *reaches out to the farthermost edge of the farthermost reef,* it is quite a problem as to where it is going to be.

Attorney General Brownell. *I agree with that.* [p. 933]

. . . .

Senator Long. There has been some question raised with regard to *whether* you should use a *shoreline definition* or a *coastline definition.* . . . [I]f there were to be a 3-mile limit, it would have to measure forward from the *boundary of inland waters,* which *is the distinction which is made between the word "coast" and the word "shoreline." The word "coast" means to measure from the boundary line of inland waters, while the word "shoreline" means to measure from the shore itself.*

I would point out to you that, *with regard to the State of Louisiana,* the Enabling Act that brought the State in refers to the southern *boundary as "extending to the said gulf* to the place of beginning, including all islands *within 3 leagues of the coast."*

Congress cannot very well apply a shoreline definition to Louisiana after it has already fixed its boundary as a coastline, can it?

Attorney General Brownell. We would want to give that a little study, Senator, before we answered that particular point. . . . [p. 939]

. . . .

Senator Kuchel. . . .*When you suggested the "shoreline"* be used as the basis for any congressional description, you would of course *exclude* from your use of the word "shoreline" *any inland waters along any coastal State involved.*

Attorney General Brownell. *That is right.*

. . . .

Senator Kuchel. [T]he bill introduced by the Senator from Florida defines the term "coastline" as meaning the line of ordinary low water along that portion of the coast which is in direct contact with the open sea, and is a line marking the seaward limit of inland waters, which includes all estuaries, ports, harbors, bays, channels, straits, historic bays and sounds, and all other bodies of water which join the open seas. [p. 947]

. . . .

[W]ould you object if these bills failed to describe in metes and bounds the lands that the congress is concerning itself with and used language generally as the Holland bill does?

Attorney General Brownell. We certainly could not object to that. *That is a matter of congressional policy.* We only make our suggestion for the purpose of certainty. [p. 948] (All emphasis supplied)[3]

[3]Both the House and Senate Committees which held hearings in 1953 on the Submerged Lands Bills explained the term "coastline" in their subsequent reports. The House Committee stated, *H.R. Rep. No.* 215, 83d Cong., 1st Sess. 4 (1953):

Section 2(b) defines "coastline" which is the baseline

Furthermore, in the House Judiciary Committee hearing on August 24, 1949, the designation of the coast line under the 1895 Act was submitted in evidence. *See Hearings on H.R. 5991 and 5992 Before Subcommittee No. 1 of the House Committee on the*

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from which the State boundaries are projected seaward. It means not only the line of ordinary low water along the coast which directly contacts the open sea but it also means the line marking the seaward limit of inland waters.

Inland waters include all ports, estuaries, harbors, bays, channels, straits, historic bays, sounds, and also all other bodies of water which join the open sea.

The Senate Committee explained, *S. Rep. No.* 133, 83d Cong., 1st Sess. 18 (1953):

The words "which include all estuaries, ports, harbors, bays, channels, straits, historic bays, and sounds, and all other bodies of water which join the open sea" have been deleted from the reported bill because of the committee's belief that the question of what constitutes inland waters should be left where Congress finds it. The committee is convinced that the definition neither adds nor takes away anything a State may have now in the way of a coast and the lands underneath waters behind it.

In this connection, however, the committee states categorically that the deletion of the quoted language in no way constitutes an indication that the so-called "Boggs Formula," the rule limiting bays to areas whose headlands are not more than 10 miles apart, or the artificial "arcs of circles" method is or should be the policy of the United States in delimiting inland waters or defining coastlines. The elimination of the language, in the committee's opinion, is consistent with the philosophy of the Holland bill to place the States in the position in which both they and the Federal Government thought they were for more than a century and a half, and not to create any situations with respect thereto.

Judiciary, 81st Cong., 1st Sess. 74-75 (1949). In the hearing before the Senate Committee on October 5, 1949, the method of designating and defining the coast line by the federal government under applicable Acts of Congress was thoroughly discussed with the Committee. *See Hearings on S. 155 and Other Bills Before the Committee on Interior and Insular Affairs of the Senate*, 81st Cong., 1st Sess. 179-80, 194-95 (1949).

The Act of Congress of February 19, 1895, authorized and directed the Secretary of the Treasury to designate and define "by suitable bearings or ranges with lighthouses, light vessels, buoys, or coast objects, the lines dividing the high seas from rivers, harbors, and inland waters." Subsequent Acts of Congress confided this responsibility to the Secretary of Commerce and Labor (Act of February 14, 1903, 32 Stat. 829, sec. 10), later redesignated the Secretary of Commerce (Act of March 4, 1913, 37 Stat. 736, sec. 1), to the Commandant of the Coast Guard (Reorganization Plan No. 3 of 1946, 60 Stat. 1097, secs. 101-04), and to the Secretary of the Treasury or to the Secretary of the Navy when the Coast Guard is operating in that Department (Reorganization Plan No. 26 of 1950, 64 Stat. 1280); and the responsibility was delegated by the Secretary of the Treasury to the Commandant of the Coast Guard (Treasury Dept. Order of July 31, 1950, 15 *Fed.Reg.* 6521).

Long before the Commandant of the Coast Guard had any authority under the Act of February 19, 1895, the United States had been concerned with "lines di-

viding the high seas from rivers, harbors, and inland waters" and with distinguishing between waters outside the line dividing the inland waters from high seas —this responsibility was delegated to predecessors in authority of the Coast Guard Commandant under applicable Acts of Congress. This should negate the misnomer "Coast Guard Line" given to the Inland Water Line, or coast line, by those representing the United States. The naming of the Inland Water Line as the "Coast Guard" Line we submit is improper.

The statement by the Commandant in his December 8, 1953, report on boundary lines of inland waters, 18 *Fed.Reg.* 7893, that "these lines are not for the purpose of defining Federal or State boundaries, nor do they define or describe Federal or State jurisdiction over navigable waters" may describe his intent but not his directive; moreover, in the Code of Federal Regulations, 33 *C.F.R.* 82.1 (Jan., 1967), the Commandant very properly says,

> *The waters inshore of the lines described in this part are "inland waters," and upon them the inland rules and pilot rules made in pursuance thereof apply.* The waters outside of the lines described in this part are the high seas and upon them the international rules apply. . . . (Emphasis supplied)

Further support for the Inland Water Line as Louisiana's coast line is found in the fact that since the passage of the 1895 Act, Congress has made reference to its definition of inland waters in various other acts. *See* Officers Competency Act, Act of July 17, 1939,

53 Stat. 1049, 46 U.S.C. 224(a)(12); Coastwise Load Line Act, Act of August 27, 1935, 49 Stat. 888, 46 U.S.C. 88; Inspection of Seagoing Vessels over 300 Gross Tons, Act of June 20, 1936, 49 Stat. 1544-45, 46 U.S.C. 367.

The coast line designated and defined by the United States under applicable Acts of Congress and accepted and approved by the 1954 Act of the Louisiana Legislature is in accord with the Submerged Lands Act, 43 U.S.C. 1301-15, which thus defines "coast line":

> The term "coast line" means the line of ordinary low water along that portion of the coast which is in direct contact with the open sea and *the line marking the seaward limit of inland waters.* (Emphasis supplied)

Section 2 of the 1895 Act, as amended, 33 U.S.C. 151, provides:

> The Commandant of the Coast Guard is authorized, empowered, and directed from time to time to designate and define by suitable bearings or ranges with lighthouses, light vessels, buoys, or coast objects, *the lines dividing the high seas from rivers, harbors, and inland waters.* (Emphasis supplied)

Since the Submerged Lands Act defines "coast line" as "the line marking the seaward limit of inland waters," the line fixed in accordance with the 1895 Act of Congress and accepted by the State of Louisiana must be accepted as the coast line of Louisiana. The

two statutes are in pari materia and must be construed together.

This Inland Water Line is the line accepted and approved by Louisiana Act 33 of 1954. Congress has the Constitutional power to fix boundaries of the states with their consent. If indeed the jurisdiction of Louisiana had stopped at the Gulf of Mexico upon its admission to the Union in 1812, so that it could not claim three leagues, the Congress had the power to authorize the states to extend their boundaries for three miles from *coast* and did so in the Submerged Lands Act. Louisiana accepted the designation of *coast or coast line* made by agencies designated by Congress. Under the Constitution the coast line cannot be changed without Louisiana's consent.[4]

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[4]An example of the inviolability of the integrity of a State's boundaries is found in the addition of a part of the "West Florida Territory" to Louisiana after its admission into the Union in 1812. This territory had caused much debate prior to the passage of the Louisiana Enabling Act in 1811, as at that time it was claimed by both the United States and Spain.

The statute, 2 Stat. 708, reads in part:

> Sec. 2. And be it further enacted, that it shall be incumbent upon the Legislature of the State of Louisiana, *in case they consent to the incorporation of the territory aforesaid within their limits.* . . . (Emphasis supplied)

This statute clearly shows that Congress would not presume even to *add to the territory of a state* without its consent, much less *take territory away from it.*

Louisiana consented to the addition, and only then was the territory annexed to the state. Act of August 4, 1812, Chapter 1.

Although the definition of "coast line" in the Submerged Lands Act also states that "coast line" means "the line of ordinary low water along that portion of the coast which is in direct contact with the open sea," the coast line definition does not mean that the coast line must include a line of water in physical contact with the low-water mark along the shore in all states and at all places. The coast line described in the Submerged Lands Act is the entire coast line of the United States, of which Louisiana is only a part. The line laid out in accordance with the 1895 Congressional Act does follow the low-water mark along the shore in many places. Charts depicting the Inland Water Line show contacts with the shore along the mainland and islands in Maine, at Cape Cod in Massachusetts, Long Island and southeastern New York, Cape May and Cape Henlopen in Delaware Bay, and other points on the eastern shore. Land contacts in the Gulf of Mexico appear around the Keys of Florida, the headlands of Appalachee Bay, and along the eastern shores of the Chandeleur Islands. Many other contacts with the shore occur on the headlands of bays in California and the State of Washington on the west coast.

It cannot be denied that as a result of the Act of February 19, 1895, as amended, the will of Congress was legislatively asserted and consummated, separating the inland water from the high seas. The United States contends that the designation of the Inland Water Line concerns navigation only and that the Commandant of the Coast Guard, pursuing the Con-

gressional authority, could not have taken action affecting boundaries. However, the United States, through its authorized agents, the Secretary of the Treasury, Secretary of Commerce, and the Commandant of the Coast Guard, did in fact establish a line dividing the high seas and inland waters; and Congress adopted the same criteria in the Submerged Lands Act for the base point of the property boundary line as it did in the 1895 Act for the navigational boundary line, *i.e.*, the seaward boundary of "inland waters."

The regulation of navigation is one of the principal reasons for the recognition and exercise of jurisdiction over inland waters and territorial seas bordering this nation's shores. Such regulation is essential to its security and protection from foreign espionage and hostile invasion, and to the economy of the nation, including its valuable fishing industry. Customs, sanitary, and immigration regulations relate directly to navigation on the inland waters of the United States, and jurisdiction over the navigation of these waters is essential to the regulation of these attributes of sovereignty. The rules of navigation over inland waters provide penalties consisting of fines and seizures of vessels, 33 U.S.C. 158-59. The District Courts of the United States have original and exclusive jurisdiction over the enforcement of these rules, 28 U.S.C. 1333, 1355. Accordingly, when this nation establishes municipal regulations controlling navigation over its inland waters delineated pursuant to the Act of 1895, it

is exercising sovereign jurisdiction over these waters. There can be no doubt that it is the jurisdictional character of the coastal waters that determines the right of a coastal state to regulate navigation.

In many places the Inland Water Line, the line within which the United States asserts its jurisdiction for navigational regulation, is beyond three miles from the coast line proposed by the United States. The logical conclusion of the reasoning of the United States would be that the line in these places violates international law and is invalid. We do not believe that it should be presumed that the action of an agency of the United States is invalid and subject to attack by another agency of the United States. The contrary should be presumed: the line is valid as enclosing the jurisdictional waters of the United States.

> [A]n act of Congress ought never to be construed to violate the law of nations if any other possible construction remains. . . . *Murray v. Schooner Charming Betsy*, 6 U.S. (2 Cranch) 64, 118. *See Talbot v. Seeman*, 5 U.S. (1 Cranch) 1, 33.

The actions of its agencies in performing specifically delegated duties are entitled to this same presumption.

The law of nations is "to be tried by the test of general usage. That which has received the assent of all, must be the law of all." *The Antelope*, 23 U.S. (10 Wheat.) 66, 120-21. *See Hilton v. Guyot*, 159 U.S. 113, 163-64, 214-15. No foreign nation has ever questioned

the jurisdiction of the United States over these inland waters.

The case of *The Delaware*, 161 U.S. 459, involved the application of the rules of navigation over inland waters off the American shore. The Court said (161 U.S. at 463-64):

> *It is important that a pilot, while conducting a vessel in or out of a harbor, should not traverse waters governed by two inconsistent codes of signals*, and if there are to be two codes, *the line should be drawn between the high seas, and the inland waters* wherein the services of a local pilot are requisite for safe navigation. (Emphasis supplied)

The Court also said (161 U.S. at 463):

> Counsel . . . have assumed . . . that Gedney Channel is within the "coast waters of the United States," and therefore that the vessels involved were subject to the Revised International Regulations of March 3, 1885, c. 354, 23 Stat. 438. We think that they are mistaken in this assumption.
>
> . . . .
>
> [T]he dredged entrance to a harbor is as much a part of the inland waters of the United States within the meaning of this act as the harbor within the entrance. . . .

The Court then referred to the Act of February 19, 1895, (161 U.S. at 464-65):

> Pursuant to this authority the Secretary of the Treasury, on May 10, 1895, by Department Circular 95, designated and defined the dividing line between the high seas and the rivers, harbors and

> inland waters of New York as follows: "From Navesink (southerly) Light-House NE. 5/8 E., easterly, to Scotland Light Vessel, thence N. NE. 1/2 E. through Gedney Channel Whistling Buoy (proposed position) to Rockaway Point Life-Saving Station." The whole of Gedney Channel is within this line.
>
> . . . .
>
> [B]ut as the Secretary of the Treasury was merely directed to carry out the existing law upon the subject, we think it should be treated as cogent evidence of what the law had been before, and we are therefore of the opinion that Gedney Channel should be treated, for the purposes of this case, as belonging to the inland waters of the United States.

In the Submerged Lands Act Congress did not define the meaning of the term "inland waters," but it must have been conscious of the ruling in the case of *The Delaware*. Therefore, the Submerged Lands Act, in defining the term "coast line" necessarily meant that this coast line is the seaward limit of inland waters which belong to the adjacent state.

In August, 1967, the Coast Guard held hearings in New Orleans and Morgan City, Louisiana, and in other Gulf coast states to consider its plan to move the Inland Water Line farther landward and in many instances along the shore line of Louisiana. These hearings developed facts to show that these inland waters were so essential to and intertwined with the economy of the Gulf coast states and the nation that the change

would be detrimental to the economic welfare and safety of the state and nation. The plan was abandoned. Obviously, any attempt on the part of the Coast Guard to change the accepted boundary or coast line of the state would be ineffectual absent an Act of Congress and the consent of Louisiana officially given.

Recognition of Louisiana's coast line as designated and defined by the federal government, authorized by Acts of Congress, and accepted and approved by Louisiana, can have no international complications in view of the statement of this Court in *United States v. California*, 381 U.S. 139, 157:

> Congress could have defined inland waters as it wished for the purely domestic purposes of the Submerged Lands Act. See *United States v. Louisiana*, 363 U.S. 1, 30-36.

If the Inland Water Line had not been designated and defined by the United States under applicable Acts of Congress, shown on charts duly published, and accepted and approved by the Louisiana Legislature as its coast line, as shown above, it would be necessary now to determine Louisiana's coast line within the framework of the Court's decision in *United States v. California*, 381 U.S. 139. If this were so, however, the line that would result from the application of the then relevant rules would not be the line urged by the United States in its motion, but would be a line in large part more seaward than that line. In this pleading we set forth, with supporting reasons, the line that would be the coast line if the Inland Water Line is not recognized by the Court, together with the decree

the Court should render if the Inland Water Line is not recognized and another line is to be adopted.

This pleading and the two before it should form the basis for the Court to determine the coast line either by recognizing the Inland Water Line or by resolving the conflicting views of the interpretation and application of the principles established in *United States v. California*, 381 U.S. 139. Therefore, the Court should now order the filing of briefs on all the issues thus joined and should set the case for oral argument.

IF THE INLAND WATER LINE IS NOT RECOGNIZED, THE COAST LINE OF LOUISIANA SHOULD BE THE LINE HEREIN DEFINED BY LOUISIANA AND NOT THE LINE PROPOSED BY THE UNITED STATES

The Court in *United States v. California* was not asked by either party to consider the Inland Water Line, nor had California accepted and approved the Line as had Louisiana. California depended on unilateral action by the state subsequent to 1947 and did not depend upon action by the United States prior to its rush for oil. Louisiana's claim to its Inland Water Line is predicated upon action in which the United States and Louisiana have shared. Thus nothing in the *California* case militates against Louisiana. Had not the Inland Water Line been established as the coast line of Louisiana, the principles found in the *California* case would apply to the determination of Louisiana's coast line, and for purposes of this response

we make the following comments as if the Inland Water Line had not been so established.

A. *The Basic Framework of Decision*

1. In *United States v. California*, 381 U.S. 139, this Court held that the coast line of California for purposes of the Submerged Lands Act should be determined primarily by the rules of the Convention on the Territorial Sea and the Contiguous Zone, a holding derived from the Court's basic view that the coast line should be controlled by the principles then being followed in international law and by the United States in the conduct of its foreign relations. *See* 381 U.S. at 161-66, and note 25 on p. 162.

Although the Court relied primarily on the Convention, it did not hold that its provisions were exclusive. So, when the United States urged otherwise in its motion for a supplemental decree in the *California* case, the Court refused to adopt language proposed by the United States establishing the exclusiveness of the Convention and accepted instead language proposed by California, thereby indicating that the rules of the Convention were not the only rules that could be followed in determining the coast line under the Submerged Lands Act. *See* Decree Proposed by the United States and Memorandum in Support of Proposed Decree, p. 3 (para. 4), pp. 8-10, pp. 16-17; Decree Proposed by the State of California and Memorandum in Support of Proposed Decree, p. 3 (para. 4), pp. 9-12, p. 16, p. 22; Supplemental Decree, *United States v. California*, 382 U.S. 448, (para. 4).

We make this point because of our view that the doctrine of historic waters is applicable to portions of the Louisiana coast, see pp. 31-32, *infra*, although bodies of water we deem historic could be so considered on the basis of an "elaboration and modification" of the Convention.[5] Aside from this essential point, the differences between the parties as to the determination of the coast line (apart from the Inland Water Line) rests in the main on the interpretation to be placed on the rules of the Convention and the application of these rules to the particular geographic situations on the Louisiana coast.[6]

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[5]*See United States v. California*, 382 U.S. 448, Decree Proposed by the United States and Memorandum in Support of Proposed Decree, p. 9:

> We may assume that the word "bay" in the expression "historic bays" has a somewhat broader meaning than its usual one. Particularly, it is not limited to the restrictive definitions of paragraphs 2 & 3 of Article 7 of the Convention; paragraph 6 of that Article specifically so provides. Thus the Convention may sanction recognition as "historic bays" of areas that might not be considered bays in a usual sense.

[6]We invite the Court's attention to the fact that it has virtually determined the status of a portion of the Louisiana coastal area. In *United States v. California*, 381 U.S. 139, 171, the Court, speaking through Justice Harlan, stated that the Chandeleur and Breton Sounds are inland waters of the United States:

> By way of analogy California directs our attention to the Breton and Chandeleur Sounds off Louisiana which the United States claims as inland waters, *United States v. Louisiana*, 363 U.S. 1, 66-67, n. 108. Each of these analogies only serves to point up the validity of the United States' argument that the Santa Barbara Channel should

2. In its discussion of the use of the 54 maps in applying the relevant rules, the United States asserts (Motion, 40) that only the facts portrayed on the maps "are relevant to the delimitation of the coast line, unless Louisiana claims that there are 'historic bays' within the meaning of the Convention," and that "the Convention does not permit departure from the principles therein stated on the basis of other data." Louisiana submits that this position reflects a misunderstanding of the function of this Court in determining the coast line and is inconsistent with some of the lines drawn by the United States.[7]

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not be treated as a bay. . . . Neither is used as a route of passage between two areas of open sea. In fact both are so shallow as to not be readily navigable.

In the footnote to these remarks, Justice Harlan noted,

> The depth in general ranges between 6 and 12 feet according to Coast and Geodetic Survey Chart No. 1270, but there is no passage as much as 12 feet deep connecting the ends of the sounds. The sounds are "navigable waters" in the legal sense even in the parts too shallow for navigation. . . .

The relevant officially recognized coastal charts (U.S.C. & G.S. nautical charts, 1200 series) will show that nearly the entire Louisiana coastal area is characterized by waters as shallow or even shallower than the waters of Chandeleur and Breton Sounds. It should also be noted that the danger curve on the 1200 series nautical charts is located at the five fathom contour line. 2 *Shalowitz, Shore and Sea Boundaries* 329 (1964).

[7]We deal here with the misconception of the Court's function by the United States in its statements concerning the use of the 54 maps. We deal later, pp. 35-37, *infra*, with the specific problem of the use of the maps to delineate Louisiana's coast line, but it should be pointed out here for the information of the Court that neither the United States nor the

In the present case, this Court is called upon by the United States to lay down a particular line that not only will be the coast line of Louisiana for purposes of the Submerged Lands Act but also will be the baseline claimed by the United States vis à vis foreign nations. In light of this latter function, we believe it vital that the Court, in applying the relevant rules, consider those facts of history, geography, and economy that are inherently involved in the establishment of any jurisdictional baselines. *See Fisheries Case* (United Kingdom v. Norway), [1951] I.C.J. 116, 132-33, and *see United States v. California*, 381 U.S. at 171. Naturally, we do not seek a departure from the clear rules of the Convention, as does the United States, for example, when it contends (Motion, 69) that the size of an island has relevance in determining its use as a baseline point under article 10 of the Convention; but we do urge that the facts of history, geography, and economy provide additional support for the alternative coast line Louisiana has drawn as well as for the Inland Water Line.

State of Louisiana authorized the committees which engaged in the making of the 54 maps to bind either government. The survey and the resulting maps were not an official undertaking of either government; and they cannot now be said to be binding upon them. Furthermore, Louisiana Act 9 of 1962 prohibits any agreement or compromise which may affect the state's claim to its historic boundaries as redefined in Act 33 of 1954 (which accepted and approved the coast line of the state as designated and defined by the United States under applicable Acts of Congress) and requires ratification by a vote of a majority of the members elected to each house of the legislature to any agreement affecting its coast line or historic boundary.

With this exposition of the basic framework in which a decision on the coast line must be reached, we turn to the general rules applicable to the Louisiana coast and next to the application of these rules to particular segments.[8]

B. *The Governing Principles*

1. *Technical Matters*—The determination with exactness of an alternative coast line of Louisiana requires at the outset agreement on such technical questions as the water datum to be used, the unit of measurement to be followed, and so forth. Fortunately, the past practices of the parties with respect to the administration of the submerged lands pending the outcome of this controversy provides an adequate basis for resolving some of these questions without disagreement, and the United States has for the most part followed the former practices in its present motion. Consequently, while Louisiana does object to many of the definitions presented by the United States, it has no objections to the following definitions proposed by the United States in its Motion, at p. 55, Nos. 1 (mean low-water) and 2 (mean high water); p. 56, No. 4 (geographical mile); p. 58, No. 5 (grid scale); and p. 62, No. 8 (derivation of boundary from coast line).

2. *Bays*—The specific positions of the United States with respect to the many indentations of the

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[8]Throughout this analysis the Court is asked to remember that Louisiana does not agree that its shore line is synonymous with its coast line, and Louisiana again submits that Acts of Congress from 1806 on support Louisiana's contention that its coast line is the outer limit of inland waters.

Louisiana shore are at variance, in many instances, with what we believe is the true meaning of article 7 of the Convention. The divergences of opinions on various points will be treated more specifically at the geographic portion of the coast to which they pertain, but the rules for bays apply so pervasively to the Louisiana coast that a separate treatment of the general principles appears necessary. We therefore briefly set forth below Louisiana's view of the Convention on the questions of the determination and closure of bays.

(a) *The Rules for Bay Determination*

(1) At the Hague Conference for the Codification of International Law in 1930, the United States proposed the semicircle test as a geometric solution to the troublesome problem of determining whether an indentation should be considered a juridical bay rather than a mere curvature of the shore. Under the semicircle test, an indentation was a bay if the area of the waters enclosed by a line across its mouth was at least as great as the area of a semicircle whose diameter was the same line. To this simple test there was added a geometrical modification, known as the reduced-area formula, which served to minimize problems of area measurement present in irregular indentations by generalizing the shape of the indentation to eliminate pockets, coves, and tributary waterways within the primary or outer indentation. Neither the semicircle test nor the reduced-area formula was adopted at the 1930 Conference.

The Convention on the Territorial Sea and the

Contiguous Zone adopted the semicircle test in article 7 *but rejected the reduced-area formula.* Under the Convention, then, it is clear that the water area of the indentation includes the area of pockets, coves, and tributary waters within the indentation for the purposes of measurement. *See* 1 *Shalowitz, Shore and Sea Boundaries* 219 (1962); *Strohl, The International Law of Bays* 58-60 (1963); *U.S. Department of State, Geographic Bulletin No. 3,* "Sovereignty of the Sea" 11 (April, 1965): "[T]he water of bays within bays may be included as water surface of the outer bay in determining the dimensions of any coastal indentation."

(2) The Convention clearly indicates that islands within a bay are considered as part of the water area for the purposes of measurement; islands within an indentation are to be treated as if they did not exist. Though this is the clear language of the Convention, we believe the United States has overlooked the rule in its application of the Convention to Louisiana.

This rule does not mean that other islands or low-tide elevations may not be considered as forming part of the perimeter or as the natural entrance point of a bay. As we show, *infra,* the accepted view of the Convention is that elevations may be so treated.

(b) *Selection of Natural Entrance Points*

(1) The problem of the exact location of natural entrance points of bays is treated only generally in the Convention. Prior to the adoption of the Con-

vention, it was the accepted view that the outermost natural entrance points were the points between which the bay closing line was to be drawn. *See e.g.*, Boggs, "Delimitation of the Territorial Sea," 24 *American Journal of International Law* 541, 549 (1930); 3 *Acts of Conference for the Codification of International Law* 218 (1930). This should be taken to be the rule under the Convention, *cf. Strohl, The International Law of Bays* 68 (1963).

(2) The natural entrance points of a bay, and indeed, part of the perimeter of a bay may be islands according to the assumptions of writers interpreting the Convention. *See e.g.*, Pearcy, "Measurement of the U. S. Territorial Sea," 40 *Dept. of State Bulletin* 963, 967 (1959); *Strohl, The International Law of Bays* 72 (1963). The language of the Convention indicates in addition that a low-tide elevation should be similarly treated. Article 7 of the Convention uses the low-water stage for determining the natural entrance point of a bay; therefore, it is the emergent land at low-water stage which determines the location of the natural entrance points.

3. *Historic Inland Waters*—As Louisiana will show in detail in the discussion of specific segments, certain waters on its coast are inland waters because of their historic character. We use the term "historic inland waters" to reflect our view that historic status may be accorded not only to indentations of the shore but also to all waters of historic character, a view which was taken by the Court in *United States v. Cali-*

fornia, 381 U.S. 139, 172-75, dealing with "Historic Inland Waters," and by the United Nations, "Juridical Regime of Historic Waters, Including Historic Bays," *U.N. Doc.* A/CN.4/143, pp. 1-18 (1962).

4. *Ambulatory Boundary*—In our subsequent brief in support of the Inland Water Line we will deal at length with the effect of an ambulatory coast line on the line of demarcation between the submerged lands and the outer continental shelf lands, but we touch upon it here to clarify statements of the United States in its Motion, pp. 60-62, that are misleading. While we are in accord with the United States that the coast line and boundary are subject to changes induced naturally or artificially, we view the situation produced by this rule to have a much more profound effect than the United States indicates.

In its memorandum filed in this case on March 5, 1956, pp. 9-10, the United States observed,

> The Louisiana coast line is an extraordinarily complicated one. Some idea of its complexity can be gained from the fact that while the "general coast line" of the State is only 397 miles long, the detailed tidal shore line has a length of 7,721 miles. *World Almanac* (1955), p. 258. In addition to its involved configuration, it presents through much of its length a contour so nearly level that even minor wind variations can cause very substantial differences in the point to which the tide retreats. Finally, the shore line is not a stable one, but is subject through most of its length to rapid and substantial changes.

The statement concerning complexity again emphasizes the vast difference between the shore line along the mainland and the coast line as the outer boundary of inland waters or of outlying bays, sounds, and other waters. From this, too, it is obvious that if the position of the United States that "shore line" is synonymous with "coast line" is sustained the outlook for settlement of this controversy would lie in the dim future because of the many problems involved in the location of any irregular coast line and boundary of the state's inland waters.[9] Moreover, because of the acknowledged instability, we can envision constant difficulties with the location of future coast lines and boundaries, although both parties have attempted to take future changes into account in locating the present coast line, with varying results. The United States minimizes these difficulties (Motion, 61, note 12), but its proposals to obviate the problems are purely conjectural and are not acceptable to Louisiana.

5. *Coastal Dynamics*—The rocky coast of Cali-

[9]We note the present controversy over the interpretation and application of the relevent rules well illustrates that if the Inland Water Line is not adopted there are a host of questions which, once answered, would have to be faced again and again in an interminable series of disputes, following each significant change in the details of configuration of the shifting Louisiana shore. Whether the problem be development and ownership of mineral resources, fisheries control, conservation regulation, or navigation regulation there is a common, obvious fact: the present Inland Water Line is the best and most workable line that can be drawn. This was clearly established in recent proceedings in which the Coast Guard considered and rejected proposals to abandon the present line and adopt one which hugged the shore.

fornia afforded the Court in *United States v. California* a fixed, stable shore line to use in making its coast line determination. Louisiana, however, presents a dynamic shore line rapidly advancing in places and regressing in others. We feel that any coast line determination, to maintain its viability for any length of time, must take cognizance of the projected movement of the Louisiana shore line. This is particularly true in the Mississippi River delta area where the most pronounced changes take place.

The government has apparently recognized this distinction between California and Louisiana, for, on the basis of coastal dynamics, it has recommended the use of certain points as the natural entrance points of bays rather than more landward points that it would use were it not for the coastal dynamics. For example, Main Pass is suggested as the southern terminus of the proposed closing line between Breton Island and the Mississippi River delta because Main Pass is a growing land mass extending itself toward Breton Island (Motion, 79). Similarly, the government seeks to use an island at Southeast Pass as the eastern natural entrance point of the Garden Island-Redfish Bay complex, rather than using a point at Balize Bayou. The reason given is that Balize Bayou is a regressing and deteriorating body of land (Motion, 77).

The government is correct in recognizing the principle of coastal dynamics for Louisiana but errs in its failure to give true effect to that principle. It has overlooked many shore line phenomena similar to Main

Pass and Balize Bayou which must be considered in any determination of Louisiana's coast line. We will take up these points in our discussion of the particular segments.

6. *The Set of 54 Maps*—In its Motion and memorandum the United States says of the series of 54 maps accompanying the "Report of the Determination of the Contact Line of Mean Low Water on the Gulf of Mexico with the Mainland and Adjacent Islands of the State of Louisiana by a Committee Representing the U. S. Dept. of Interior and a Committee Representing the State of Louisiana," that they "depict the mean low-water line of the Louisiana coast in minute detail. . . ." (Motion, 39-40), that "there can be no dispute about the geographical facts portrayed by the maps. . . ." (Motion, 40), and that "these facts alone are relevant to the delimitation of the coast line. . . ." (Motion, 40). Louisiana cannot and does not agree with these inflexible and dogmatic statements. The maps are based on surveys as much as 15 years old and cannot be depended on to reflect present conditions. Further, there are, as we next list, so many defects, omissions, and difficulties encountered in the use of these maps that were it not for the fact that they are the only ones now available that may be used as a basis from which to delimit an alternate coast line, Louisiana would find them completely unacceptable.

(a) The maps do not depict the whole of the coast. The area from Ship Island, Mississippi, to the northernmost extremity of the Chandeleur Island

chain is not shown, and in several places the depth of penetration and interior extent of bays and other bodies of water are not indicated.

(b) The maps mistakenly label as "Gulf of Mexico" waters admittedly inland.

(c) They fail to show water depths in the bays and inland waters of Louisiana and in the near-shore waters, although this Court has recognized the relevance of water depths in determining inland waters. *See United States v. California*, 381 U.S. 139, 171.

(d) They do not portray the outermost permanent harbor works, which, according to the United States, are to extend the coast line of the state (Proposed Decree, 7). The parties will have to go beyond the series of 54 maps in order to present these vital facts to the Court.

(e) They do not in all cases accurately portray the engineering and geographical data developed by the surveys on which they are based. As we later show, some islands of consequence actually surveyed are not depicted on the maps. Louisiana retains the right to contest, with appropriate evidence, the accuracy of the maps when relevant to the determination of the coast line.

(f) Finally, the maps are not the large-scale charts recognized by the Convention in article 3 as the reference from which to determine baselines. In *United States v. California*, 381 U.S. at 176, the Court found that with respect to the United States the charts referred to by article 3 were the official coastal charts

prepared by the United States Coast and Geodetic Survey. Along Louisiana's coast, these large-scale charts are the 1:80,000 scale Coast and Geodetic Survey nautical charts, 1200 series.

Notwithstanding the above problems concerning the series of 54 maps[10] and without at all minimizing the inadequacies pointed out, Louisiana accepts their use in the present proceedings, to the extent they can be so used, as convenient tools. However, Louisiana fully reserves its rights to question the information shown on the series of 54 maps, to introduce other maps, and to produce relevant data in addition to and in conflict with that found on the 54 maps.

7. *Lateral Boundaries of Louisiana*—The precise locations of the water boundaries between Louisiana and Mississippi on the east side of Louisiana, and Louisiana and Texas on the west side, have never been completely fixed. We agree with the United States

[10]It should also be noted that at the time these surveys were conducted and the maps produced, it was agreed that neither government would be bound by the work. In the subsequent "Report of the Joint Federal and State Committee Regarding the Effect that the Geneva Convention on the Territorial Sea and the Contiguous Zone Would Have if Applied to the Coastline of the State of Louisiana" it is stated at page 1 that "the appointing officials of the two governments have not authorized the Committee to bind either government," and at page 3 it is said that "for convenience, this Report uses the terms 'Federal views' and 'State views,' but these are to be understood as representing only the views of the two Sections of the Joint Committee, and are not to be construed as being necessarily the views of either the United States or the State of Louisiana." The survey and the resulting maps were not an official undertaking of either government; they cannot now be said to be binding on them.

(Motion, 66, No. 9) that the introduction of these collateral issues into the present proceedings should be avoided; accordingly, our alternative decree expressly limits the location of the Louisiana coast line to the area within her lateral boundaries.

C. *The Specific Areas*

In its original motion, Louisiana described its coast line in an east to west direction from Ship Island, Mississippi, to Sabine Pass Lighted Whistle Buoy 1, near the Texas-Louisiana border. We have retained that direction in describing the coast line presented herein. The discussion of specific areas consequently begins with the area adjacent to Ship Island.

In order to simplify as much as practicable the central issues dividing the parties, we do not raise sub-alternatives at this time (except in some instances where they relate to contentions of the United States), but we reserve our right to urge sub-alternatives in consideration of detailed points if the occasion arises.

1. *Chandeleur and Breton Sounds*—The government contends that the waters of the Chandeleur and Breton Sounds do not qualify as inland waters under the Convention, although it considers them inland waters because of its prior "concessions." Louisiana will show that historically the sounds have been considered inland waters of the United States and of Louisiana and are inland waters now regardless of any "concession" of the United States.

First, the waters are geographically landlocked. *United States v. Louisiana*, 363 U.S. 1, 66-67, n.

108. They are too shallow to support any form of international commerce, and even if they were of sufficient depth they are so situated as to provide no useful route of commerce between nations. *United States v. California*, 381 U.S. 139, 171. Second, the waters always have been considered as a part of Louisiana. In *Louisiana v. Mississippi*, 202 U.S. 1, and again in *United States v. Louisiana*, 363 U.S. 1, the Court recognized that the Gulf of Mexico lay on the seaward side of the Chandeleur Island chain, thereby including the waters of the sounds within the historic boundaries of Louisiana under its Act of Admission; and, since 1895 the waters have been situated behind the lines drawn pursuant to the Act of February 19, 1895, as amended, and have been subject to continuous jurisdiction by the nation and the state. Third, although the waters are not useful as a route of international commerce, they are useful to citizens of the United States, many of whom derive their livelihoods directly or indirectly from the activities engaged in, on, or under the waters of the sounds.

It should be clear, then, that the waters of the Chandeleur and Breton Sounds are historic inland waters of the United States whether viewed in the light of pre-Convention international law or under the Convention itself. To argue that these waters are inland merely because of a concession is simply to ignore the principle of historic waters in international law and to disregard the unique character of the area.

2. *Ship Island to Chandeleur Island*—The United

States proposes that the entrance to the Chandeleur Sound area between Ship Island and Chandeleur Island be closed by a line from the northernmost extremity of Chandeleur Island to the "closest point on the mean low-water line on Ship Island. . . ." (Proposed Decree, para. 15(qq), p. 36). We know of no principle of international law which provides for the drawing of a closing line across the entrance of a body of inland waters between the closest points. (*Cf.* Decree proposed by United States, para. 13). On the contrary, it is recognized that the closing line should be drawn between the outermost natural entrance points. At the Ship Island-Chandeleur Island entrance the natural entrance points are the eastern tip of the western island of the Ship Island couplet on the north and the northern tip of Chandeleur Island on the south; if an alternate coast line is to be established, it should be a straight line crossing the entrance between these two points.

3. *Isle au Breton Bay*—The body of water formed by the Chandeleur Island-Breton Island-Bird Island curve and by the extension of North Pass and related islands is of the same character as the Chandeleur and Breton Sounds. The waters are landlocked and cannot serve as a useful route of international commerce; they have been located behind the lines drawn pursuant to the Act of February 19, 1895, since the lines were first drawn; and they have been subject to the vital interest and control of Louisiana. Moreover, apart from this historic character, these waters qualify as inland waters under the tests of the Convention for

determining whether a body of water is a bay: the length of the closing line is less than 24 miles; and the area of a semicircle drawn on a line between the natural entrance points is 151,600 acres, while the water area shoreward of the closing line is over 165,000 acres. Consequently, Isle au Breton Bay is a body of inland waters and a closing line across its entrance should be a part of the Louisiana coast line.

The northern natural entrance point of Isle au Breton Bay is located at the northernmost point of Grand Gosier Island, the point at which the coast begins to turn in to form the indentation. In view of the extension of the natural levee of North Pass and the projected seaward growth of that pass, the southernmost natural entrance point should be located at the outermost island off North Pass. The Louisiana closing line proposed herein is drawn between these two points.

4. *Mississippi River Delta*—The delta area, bounded by North Pass on the east and Tiger Pass on the west, is a single geographic entity and should be treated as such. Composed of the six dominant passes of the river—North Pass, Pass a Loutre, Northeast Pass, Southeast Pass, South Pass, and Southwest Pass—and the waters of Blind Bay, Garden Island and Redfish Bays, East Bay, West Bay, and other less significant and sometimes unnamed bays and inlets penetrating into the mainland between the various passes, it is unique both geologically and historically: geologically, because of the continuing extension of the

land mass seaward, the shallow and sediment-laden near-shore waters, and the formation and location of mudlumps and other phenomena; historically, because the mouth of the Mississippi River, including its delta area, is now and always has been considered as being of over-riding importance to the economy and security of the heart of the North American Continent. The value placed on the river and its delta by the nations which first owned it is well-documented; indeed, the motive force behind the purchase of the vast Louisiana Territory by the United States was the acquisition and control of the river and the delta area commanding its passes. Since then numerous assertions of jurisdictional authority by both the United States and Louisiana, without protest or complaint by foreign nations, have established the waters of the delta as historic inland waters.

Each of the delta bays, although a part of the historic waters of the delta unit, also has certain distinguishing geographic and historic characteristics which require separate comment.

(a) *Blind Bay*—The natural entrance points of this coastal bay are mudlump islands off Pass a Loutre and Southeast Pass, respectively. The northern natural entrance point is the outermost island off Pass a Loutre, lying at the end of the submerged natural levee projecting seaward from the pass approximately two miles from its mouth and connected to the Pass by a series of islands and low-tide elevations. Pass a Loutre continues to deposit large amounts of sediment near its

mouth, filling in the shallow waters between the islands and slowly growing seaward toward them. Further seaward extensions in this area are to be expected, and the alternate coast line was located by taking this into account. The southern natural entrance point of this bay is located at an island off Southeast Pass rather than on a point at Northeast Pass. Northeast Pass no longer carries sufficient sediment to maintain its present configuration, and its waters have been largely captured by Southeast Pass. While Northeast Pass is regressing and subsiding due to the forces of wind and wave, Southeast Pass continues to project itself seaward and will become increasingly more pronounced as the natural entrance point of this bay.

In addition to its being an historic water body, the indentation is a bay within the meaning of the Convention—its closing line is less than 24 miles long, and the water area behind this line is greater than the area of a semicircle drawn on the closing line. Thus a closing line across the bay is justified either historically or under the tests of the Convention.

(b) *Garden Island and Redfish Bays*—The two natural entrance points of this bay complex are the outermost island off Southeast Pass and the seaward tip of the South Pass east jetty. The outermost island off Southeast Pass is part of the natural extension of the land form of the growing Southeast Pass distributary and on the basis of coastal dynamics should be designated as the southern natural entrance point of

the bay complex. The South Pass east jetty is used by the United States as the southern headland and requires no comment.

In addition to being historic waters, this bay complex qualifies as a bay under the rules of the Convention on the Territorial Sea and the Contiguous Zone. A line between the natural entrance points is less than 24 miles long, and the water area behind that line exceeds that of a semicircle drawn with the closing line as its diameter.

(c) *East Bay*—The well-marked indentation of the coast known as East Bay lies between the two most important passes of the Mississippi River—South Pass and Southwest Pass, the only two passes maintained for navigation. While it does not qualify technically as a bay under the mathematical semicircle-area test, this is so only because of its peculiar geographic configuration. East Bay is an almost perfectly triangular-shaped body of water containing an approximate 75 degree angle at the apex of the triangle near the juncture of South Pass and Southwest Pass, the two land legs of the triangle. As a consequence of this unusual shape the waters of East Bay have always maintained a substantial depth of penetration into the surrounding mainland in comparison to the length of the opening across its mouth.

The area of landlocked water within the bay has varied as the headlands at South Pass and Southwest Pass grew seaward. At certain periods in its history, when its depth of penetration was less than today, the

bay contained enough water to satisfy the technical semicircle rule. However, today, even though the depth of penetration has never been greater and the bay contains more water area than ever before, the divergence of the two land sides of the triangle has resulted in an increase in the length of the closing line such that there is not sufficient water area to meet the technical semicircle test for the whole bay. This result is due to the activities of the United States government in maintaining navigation in the adjacent channels of the Mississippi River.

From a legal and practical standpoint the waters of East Bay have historically been considered a part of the territory of the United States and the State of Louisiana. Legally, the waters of East Bay qualified as a true bay under every recognized theory and test of international law for determining the inland character of water lying within a coastal indentation. Practically, the United States and the State of Louisiana through treaty, legislation, administrative action, and executive order have always treated these waters as part of the territory of this nation, as have the citizens of the United States and Louisiana through the economic and recreational activities conducted on these waters.

Not only are these waters historic inland waters of the United States, but at all times prior to the Convention they legally constituted part of the territory of the United States and of the State of Louisiana under recognized rules of international law.

Nothing in the Convention itself or in its history suggests any intention to deprive this nation of the waters of any historic bay; on the contrary the Convention expressly preserves to each nation the waters of its historic bays. No part of the territory of the United States or of Louisiana should be discarded to the family of nations unless this is imperatively required. Certainly this bay, between the two principal passes at the mouth of the vital Mississippi River, deserves greater consideration than can properly be given in this memorandum and will be more fully dealt with in Louisiana's brief.

(d) *West Bay*—The United States proposes a closing line for West Bay running from a point on land west of Lighthouse Bayou on the south to the southernmost extremity of land west of Pass du Bois on the north. Neither point is the outermost natural entrance point of West Bay. As has been discussed *supra*, the proper closing line for a bay is drawn between its *outermost* natural entrance points if such a line will not violate other rules for bay determination and closure. Clearly, if an alternate line is to be established, the points which Louisiana has chosen are the outermost natural entrance points of this body of inland waters: the southern point is the first point at which the shore turns inward to form West Bay; the northern point is the outermost natural entrance point at Pass du Bois.

The straight line drawn between the two natural entrance points is less than 24 miles long and encloses

waters sufficient to meet the semicircle rule. Thus, the line is the proper coast line in this area.

5. *Spoil Bank at Pass Tante Phine*—The United States contends (Motion, 75), that this part of the low-water mark should not be considered as such because it is not a "purposeful or useful extension of the land" and is of an "insubstantial character." Article 3 of the Convention, expressly requiring the baseline to follow the mean low-water mark, contains no requirement that the low-water mark be purposeful, useful, or substantial. If the position of the United States be followed, the Louisiana coast line would *not* follow the low-water mark as shown on the series of 54 maps about which the United States has said "that there can be no dispute." (Motion, 40). It would instead follow other points, the determination of which would depend on the ability to distinguish between natural and artificial accretions and between purposeful, useful, and substantial points and those that do not possess these characteristics. To introduce such distinctions can only lead to confusion and uncertainty in the determination of the rights of the parties in this case and in any future disputes or litigation. While we do agree with the United States that the coast line should be stable, we cannot agree that its position in this instance is conducive to stability.

6. *Ascension Bay*—This large deltaic area lies between the present western mouth of the Mississippi River and an old mouth of the river, *See* Morgan, "Ephemeral Estuaries of the Deltaic Environment,"

Estuaries 117-19 (Lauff ed. 1967), and will be denominated here "Ascension Bay." The line drawn between the two natural entrance points encloses waters easily sufficient to meet the semicircle test when the waters of pockets, coves, and tributary waterways are included for measurement purposes as they are to be under the Convention. *E.g., 1 Shalowitz, Shore and Sea Boundaries* 219-20 (1962). The unity of configuration theory that the United States advances in an attempt to establish Ascension Bay as a "slight curvature" rather than an over-large bay is creative but unrealistic and not in accord with the generally accepted interpretation of the Convention on the subject of water area of bays.

Not only does the bay meet the water-area test when properly applied, but a mere cursory glance at a map demonstrates the inaccuracy of the federal statements that the shore line is only "somewhat curved" in this area and that the "curvature cannot be considered more than slight. . . ." (Motion, 72). In fact, this "slight curvature" is so pronounced that the waters behind a line drawn between the natural entrance points, even excluding the waters that the United States incorrectly contends should not be considered for measurement purposes, equals 92.1% of the area of the semicircle drawn on the line from Southwest Pass jetty to Belle Pass jetty.

The length of the closing line across Ascension Bay being in excess of 24 miles, the proper closing line should be drawn in the manner specified in para-

graph 5 of article 7 of the Convention, resulting in the Louisiana closing line from the eastern jetty at the Empire Canal to a point southwest of Caminada Pass. The line thus described by Louisiana is 24 miles long and encloses the maximum amount of water possible with a line of that length. Whether the two points between which the closing line is drawn are headlands is irrelevant under article 7(5). *See* 1 *Shalowitz, Shore and Sea Boundaries* 224 (1962).

Additionally, Louisiana has exercised jurisdiction over Ascension Bay. Regulation of the taking of fish, shrimp, and oysters goes back to the last century. These continued acts of jurisdiction over a long period of time, coupled with other factors, might justify Louisiana's claiming even more of Ascension Bay on historic grounds; certainly it should not be forced to take any less.

7. *Beach Erosion Jetties at Grand Isle*—There are a number of short but important jetties extending seaward from Grand Isle serving to eliminate or lessen the erosion which would otherwise take place there. While these jetties do not extend beyond the 24-mile line drawn within Ascension Bay as discussed *supra* (and thus would have no affect on the coast line described by Louisiana herein), the state objects to the failure of the federal government to deal with these jetties in a manner consistent with its treatment of the general topic at pp. 66-68 of its Motion. In that general treatment the United States quotes from the commentary of the International Law Commission that

"permanent structures erected on the coast and jutting out to sea *(such as jetties and coast protective works)* are assimilated to harbour works," (emphasis supplied). At Grand Isle the jetties are definitely "coast protective works"; hence the federal government should have described them as extending the coast line they propose in that area.

8. *Timbalier-Terrebonne Bay Complex*—As the United States concedes, this complex constitutes a single body of inland waters. The federal description of the coast line in this region, however, uses the islands in front of this body of water to contract the inland waters of the bay. We emphatically disagree with this approach.

A straight line drawn between the natural entrance points of this waterbody at X=2,311,205.47; Y=141, 867.20 on the east and X=2,170,035; Y=135,-500 on the west is less than 24 miles long and encloses sufficient water to meet the semicircle test. If the islands were not present the coast line of Louisiana would follow this straight headland to headland line. The rule the United States invokes regarding islands at the mouth of an indentation is based on the principle that the presence of islands links an indentation more closely to the mainland; it is used to justify an extension of inland waters, not a contraction such as the United States seeks to effect. It is our view that the correct interpretation of the Convention justifies an extension of the headland to headland line to encompass the islands.

The opinion of Aaron Shalowitz, the United States' chief witness in the *California* case, in 1 *Shore and Sea Boundaries* 225 (1962), accords with that of Louisiana. Shalowitz writes,

> Another facet of the closing-line rule that requires interpretation is where islands are situated close to the entrance of an indentation that satisfies the semicircular rule for bays. How is the closing line to be drawn where an island lies to the landward of the line joining the headlands? And what is the treatment for an island lying to seaward of such line? Neither situation is provided for in the convention or in the draft rules of the ILC. A reasonable interpretation would be to draw a direct line between headlands for the first case (*see* fig. 44), but to the island from each headland for the second case (*see* fig. 45).

In the footnote to this statement he remarks,

> The basis for this interpretation is the observation of the ILC that the presence of islands at the mouth of an indentation tends to link it more closely to the mainland (*see* text following note 29 *supra*). It would seem to follow that where a choice of lines exists that line be selected that encloses the greatest area of inland waters. This is consistent with Art. 7, par. 5 of the convention which calls for a closing line to be drawn that encloses the maximum area of water possible, and with par. 3 of the article which allows islands within an indentation to be considered part of the water area. The rule proposed would still leave unresolved the question of how far seaward from the headland line islands could be in order to be

> incorporated under the rule. The best solution would be to consider each case on its merits and apply a rule of reason. A more restrictive rule for the second case would be to join the island to each headland only if some part of the island is on a direct headland-to-headland line. This would also be in the interest of least encroachment on freedom of the seas.

These rules call for an extension of the direct headland to headland line to meet the portions of the islands seaward of the line.

9. *Caillou Bay*—Prior to its present motion the United States had taken the position that a straight closing line should be drawn across Caillou Bay. The so-called "Chapman Line," which has represented the federal position as to the Louisiana coast line since 1950 (*see* Motion, 78) closed Caillou Bay; and a closing line across the bay is a logical application of the principle that the waters between the mainland and the islands off Louisiana's shore belonging to the state are inland waters. (*See United States v. Louisiana*, 363 U.S. at 67, note 108). The United States now urges that Caillou Bay is not a true bay. Not only is this contention inconsistent with other positions taken by the United States, but, under the Convention, Louisiana's closing line across the bay is justified.

The use of islands to form part of the perimeter of a bay is recognized under the Convention. Dr. G. Etzel Pearcy, the Geographer of the Department of State, in his article, "Measurement of the U. S. Territorial Sea," 40 *Department of State Bulletin*

963, 965 (1959), assumes this to be the rule without question. In that article, Dr. Pearcy treats the indentation formed by the chain of Keys off the Florida coast as constituting a bay under the Convention's provisions without deeming it necessary to substantiate his assumption with any argument or citation. A reference to the official charts of the area will show the similarity of that indentation to Caillou Bay.

The federal Chapman Line, recognizing Caillou Bay as a true bay, closed Caillou Bay by a straight line from Raccoon Point on Isle Dernieres to the point on land where the 91st meridian meets the shore. In conformity with the definition of a headland, discussed *supra*, if an alternate coast line is to be established, we submit that the northern terminus of the closing line for Caillou Bay must be located at the point X=2,076,730; Y=189,630, where the shore line curves in to form the indentation.

10. *Atchafalaya Bay*—The United States recognizes this indentation to be a bay under article 7 of the Convention (Motion, 68-69) but does not correctly apply the rules of that article to determine the natural entrance points and consequent closing line of the bay.

The natural entrances to Atchafalaya Bay are formed on the east by an extension of elevations and reef-structures off Point au Fer and on the west by a group of elevations extending from the low-water mark on Marsh Island. These formations are natural extensions of the land masses from which they project —vessels may enter Atchafalaya Bay only by passing

around rather than through the formations. Consequently, points on these formations are the natural entrance points of the bay.

The closing line drawn between the natural entrance points encloses waters sufficient to meet the semicircle test, but it is more than 24 miles long. Under the rule of article 7(5) of the Convention, a straight line 24 miles long must be drawn within the bay in such a way as to enclose the maximum amount of water possible with a line of that length. In considering an alternate line Louisiana has applied that rule by moving northerly from the western natural entrance point to the first point where a line drawn from it to the eastern headland does not exceed 24 miles.

11. *Elevations at Atchafalaya Bay*—The United States reads article 11 of the Convention as giving effect only to low-tide elevations within three miles of the mean low-water mark on the mainland or on islands. Consequently, it disregards low-tide elevations in the Atchafalaya Bay area more than three miles from mean low-water on Marsh Island or Point au Fer Island but within three miles of the closing line of Atchafalaya Bay. This position, we submit, is inconsonant with the meaning of the Convention. The additional elevations should be included as a part of the coast line of Louisiana.

The first draft article of the International Law Commission on the effect of low-tide elevations reads:

> Drying rocks and shoals which are wholly

> or partly within the territorial sea may be taken as points of departure for delimiting the territorial sea. [1 *Yearbook of the International Law Commission* 156 (1954)]

Under this draft it is clear that a low-tide elevation within the breadth of the territorial sea (in this case 3 miles) from the closing line across a bay would be taken as the baseline from which to measure the territorial sea. Subsequent changes to the draft were designed merely to distinguish between low-tide elevations only within the territorial sea of another low-tide elevation, which were to be given no effect, and low-tide elevations within the territorial sea of the mainland or islands, which were to be given effect. *See* 2 *Yearbook of the International Law Commission* 270 (1956).

The draft article was changed to its present form at the 1958 Conference on the Law of the Sea at the instance of the United States. (*See* 3 *Official Records, U. N. Conf. on the Law of the Sea* 243 [U. S. proposal], 187 [adoption] (1958)). The reasons given for the United States proposal do not indicate an intent to change the article with respect to the substance under discussion. (*See id.* at 186, 243). Indeed, Mr. Francois, expert to the Secretariat of the Conference and former Special Rapporteur to the International Law Commission, stated that all of the proposals concerning the article corresponded entirely to the intentions of the International Law Commission. (*Id.* at 186-87).

It is apparent, then, that the present article 11 of the Convention has the same intent as the first draft of the International Law Commission on the point. Therefore, low-tide elevations within three miles of the closing line of Atchafalaya Bay are to be considered a part of the coast line.[11]

Even if the United States' view on the effect of low-tide elevations were correct, and we submit it is not, low-tide elevations additional to those used by the United States should be part of the coast line because they are within three miles of the low-water mark on islands within the bay. The survey maps show an island within the meaning of the Convention at X=1,899,110; Y=282,309; and the data from which the surveys were made indicate several other islands not shown on maps at all or incorrectly placed on the maps as low-tide elevations.

The contention of the United States (Motion, 69-70) that the high water elevation shown on the map at X=1,899,100; Y=282,309 is not an island utterly disregards the express rule of article 10 of the Convention. Size, amount of elevation above high water, and composition have nothing to do with whether an elevation is an island within the meaning of that

[11] The coast line description herein, paragraph 10 (ii), lists all low-tide elevations within three miles of the closing line of Atchafalaya Bay which would affect the three-mile boundary if the federal closing line were adopted. If the alternate Louisiana closing line is recognized the elevations at X=1,922,172; Y=264,238; X=1,924,399; Y=268,936, will not affect the three-mile boundary as they lie landward of the Louisiana closing line.

article. *See e.g., McDougal & Burke, Public Order of the Oceans* 397 (1962). Further, the attempt of the United States to distinguish the elevation from land is inconsistent with its statement that it should be considered a low-tide elevation (Motion, 70), since the Convention also defines a low-tide elevation as an "area of land."

12. *Outer Vermilion Bay*—The area between the southernmost point of the Shell Keys complex and Tigre Point constitutes an indentation enclosing a water area, including the water area of tributary waters, greater than the area of a semicircle drawn on a line between the two points. The line between headlands is less than 24 miles long and should be recognized as the closing line of the bay under the Convention.

This area was considered a bay by Louisiana long before this litigation arose, and the United States at least tacitly agreed. In 1937 the Louisiana Attorney General informed the State Commissioner of Conservation that the area constituted Louisiana territory and that the Commissioner was entitled to require the purchase of leases for oyster development of the area. [April 1, 1936-April 1, 1938] *Op. La. Atty. Gen.* 959. The claim was never challenged by the United States until it took special interest in the offshore oil deposits.

13. *Dredged Channels*—Article 8 of the Convention on the Territorial Sea and the Contiguous Zone provides that "the outermost permanent harbour works

which form an integral part of the harbour system shall be regarded as forming part of the coast." In the places specified in the coast line description herein, it is absolutely necessary to the service of the port to maintain permanent, controlled, dredged channels extending into the sea. For the ports to function adequately these channels must be maintained; otherwise deep-draft vessels could not enter. *See Fair, Port Administration in the United States* (1954). It is clear that the dredged channels are an integral part of the harbor system they serve.[12] (*Cf. The Delaware*, 161 U.S. 459, which held that the dredged entrance to a harbor was as much a part of inland waters as the harbor itself). The channels are thus the outermost permanent harbor works within the meaning of the Convention.

Both the *California* case, 381 U.S. 139, 175, and the recent opinion of Justice Black in this case relative to the claim of the State of Texas, recognized that the Convention entitled states claiming under the three-mile grant of the Submerged Lands Act to extend their coast lines to the outermost permanent harbor works. Therefore, if the Convention were applicable to the Louisiana coast (in the absence of the Inland Water Line), the dredged channels should be a part of the coast line. Accordingly, these channels are des-

[12]Certainly, Congress, in its many acts authorizing and appropriating hundreds of millions of dollars for the building and maintenance of these channels, in its "Rivers and Harbors Appropriations Acts," considered the channels to be a part of the harber system of the United States.

ignated in the description submitted herein to the full extent as they exist or are contracted for at the present time.

GENERAL PROVISIONS OF THE DECREE TO BE RENDERED IF THE INLAND WATER LINE IS NOT RECOGNIZED SHOULD BE AS SUBMITTED BY LOUISIANA AND NOT AS PROPOSED BY THE UNITED STATES

A. *Ownership Description*

1. The decree proposed by the United States, paragraph 2, states that Louisiana is entitled as against the United States, to the submerged lands "extending seaward from the coast line . . . for a distance of three geographical miles. . . ." Paragraph 5(c) and (d) requires the United States to account for sums derived from the lands described in paragraph 2. The United States might contend that under this language it is required to account only for sums derived from lands underlying the marginal belt and not for sums derived from submerged lands shoreward of the coast line, although Louisiana will be clearly entitled to an accounting for funds derived from all the submerged lands landward of Louisiana's seaward boundary. Consequently, Louisiana has modified the language of paragraph 2 to clarify this point by stating that Louisiana is entitled to the submerged lands "underlying inland waters and the Gulf of Mexico landward of a line three geographical miles seaward of the coast line." (Louisiana alternative decree, para. 1).

2. Paragraph 1 of the United States' proposed de-

cree enjoins the State of Louisiana from interfering with the rights of the United States in the lands decreed to belong to it. We see no reason why the United States should not be similarly enjoined; therefore, we include identical language in our alternative decree enjoining the United States from interfering with the rights of Louisiana. (Louisiana alternative decree, para. 1).

B. *Accounting*

The accounting provisions of paragraphs 3-5 of the United States proposed decree are substantially similar to the accounting provisions of Supplemental Decree No. 1, proposed by the United States and rendered herein December 13, 1965, 382 U.S. 288, 292-93, paragraphs 5-7, without objection from Louisiana. Subsequent to that decree the United States took the position that under the accounting provisions therein it was entitled to an accounting and to payment by Louisiana of all funds derived from lands belonging to the United States regardless of principles of law which would not require Louisiana to account for certain sums. *See* Objections to the Accounting of the State of Louisiana, p. 3.

We do not think the decree of December 13, 1965, had the effect the United States seeks to give it. That decree should require Louisiana to pay to the United States or others only such sums to which they would be entitled under applicable principles of law. Similarly, the United States should account to Louisiana or others only in accord with existing applicable prin-

ciples of law. To make this clear in the decree to be rendered herein we have appropriately qualified the language of the accounting provisions in paragraphs 3-5 of our alternative decree.

C. *Definitions*

When this Court decided *United States v. California*, 381 U.S. 139, it did not delimit a specific coast line or boundary. Because of this, and because only certain segments of the California coast were actually before the Court, both parties thereafter submitted proposed supplemental decrees establishing a portion of the coast line and providing definitions to be used to determine the remainder. Definitions in the final decree thus provided a means by which the contestants could establish the entire coast line of California with a minimum of dispute.

In the instant case the Court is called upon to delineate the precise location of the entire coast line and seaward boundary of Louisiana. The pleadings, briefs, and oral arguments will raise and frame all the issues to be resolved by the Court before that delineation is made. Therefore, it is unnecessary to include in the final decree a set of definitions that will not be applied because the coast line is located in the same decree. As our decree contains no definitions, we may confine ourselves to a discussion of the actual issues present in the case rather than diffusing the questions involved by disputing the wording of a particular definition.

D. *Split Leases*

1. Paragraph 9 of the Supplemental Decree of December 13, 1965, expressly recognized that existing leases which were traversed by the boundary lines established by that decree should remain in effect as single contracts until further order of the Court or agreement of the parties filed with the Court. These leases are designated in the memorandum of the United States as split leases. The United States makes no provision for the treatment of these split leases in its proposed Supplemental Decree No. 2, and its supporting memorandum to this Court, page 80, states that after entry of the decree each such lessee must treat each portion of its former lease as a separate lease.

The decree proposed by the United States, if adopted by this Court, will immediately create numerous vexing and onerous problems for many lessees. It is certain that a substantial number of leases that will be split will have producing wells located only in the portion awarded to one of the two governments. If the decree omits any reference whatever to these leases, much uncertainty will exist as to the rights and obligations of the affected lessees.

Therefore, the state feels that each affected lessee should be afforded a reasonable time within which to review the effect of the decree and to take such action as may be necessary to protect its interests. Accordingly, Louisiana suggests that its paragraph 8 be adopted by the Court requiring the parties to continue

to recognize each such split lease as a single lease for a period of two years. It is the understanding of the state that such a two-year period is uniformly granted by the Department of the Interior whenever a lease is segregated for any reason.

For such two-year period each party would recognize production or operations sufficient to maintain either part of the lease according to its terms as being effective to maintain both parts; and, of course, the party awarded part of the land covered by such a lease would be entitled to act as sole lessor of that part and to receive, without any obligation to account for or to impound, all future payments due under the lease to the extent that they are derived from or attributable to the part so awarded. However, this should not relieve the lessee of its usual obligations to develop the lease reasonably and to protect it from drainage, and Louisiana's suggested paragraph so provides.

2. Louisiana's suggested paragraph also takes care of the situation where a presently existing lease covers lands, minerals, or resources heretofore under the exclusive supervision and administration of one party but which as a result of the decree are determined to be owned wholly by the other party. A lease of any such lands, minerals, or resources will, of course, have been issued only by the party heretofore having the exclusive supervision and administration of the leased premises. If, as a result of this decree, the leased premises are determined to be owned by the other party, it seems only equitable that the lease

should nevertheless be recognized, but with the lessee being hereafter accountable to its new lessor.

3. Most of the existing leases or portions thereof, the jurisdiction over which is now being determined, are located in the disputed area and have been administered under the terms of the Interim Agreement of October 12, 1956, as amended. In such cases the necessary procedure for validation and ratification of these leases or portions thereof was established under the provisions of the Interim Agreement, the several document agreements attached thereto, and the applicable laws of the State of Louisiana and the United States.

However, certain other existing leases not located in the disputed area as defined in the Interim Agreement and as modified by the Supplemental Decree of this Court rendered December 13, 1965, will be awarded either in whole or in part to a party not heretofore having jurisdiction under the terms of the Interim Agreement and for which no procedure has been established for validation and ratification. Therefore, Louisiana proposes that the decree herein shall order both the State of Louisiana and the United States, as soon as practicable after the effective date of this decree, to establish appropriate procedures for the validation and ratification of such leases.

CONCLUSION

Louisiana calls upon the Court to recognize and enforce the official Louisiana coast line designated and defined by the United States under applicable Acts of Congress, accepted and approved by the State

of Louisiana, and clearly indicated on large-scale charts officially recognized by the United States. In the alternative only does Louisiana ask that the Court delineate its coast line by application of the relevant provisions of the Convention on the Territorial Sea and the Contiguous Zone and other applicable rules, as set forth in the decree submitted herein.

The Court should order the filing of briefs and should set the case for oral argument on the issues joined by the pleadings.

Respectfully submitted,

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In the
Supreme Court of the United States

OCTOBER TERM, 1967

No. 9. Original

UNITED STATES OF AMERICA, PLAINTIFF

v.

STATE OF LOUISIANA, ET AL

ALTERNATIVE PROPOSED SUPPLEMENTAL DECREE NO. 2

For the purpose of giving effect to the conclusions of this Court as stated in its opinion announced May 31, 1960, and the decree entered by this Court on December 12, 1960, it is ordered, adjudged, and decreed as follows:

1. With the exceptions provided by Section 5 of the Submerged Lands Act, 43 U.S.C. 1313, the State of Louisiana is entitled, as against the United States, to all the lands, minerals, and other resources underlying inland waters and the Gulf of Mexico landward of a line three geographical miles seaward of the coast line as hereinafter defined, and bounded on the east and west by the eastern and western boundaries of the State of Louisiana. The United States is not entitled, as against the State of Louisiana, to any interest in such lands, minerals, or resources, with the exceptions provided by Section 5 of the Submerged Lands Act,

43 U.S.C. 1313, and the United States, its privies, assigns, lessees, and other persons claiming under it are hereby enjoined from interfering with the rights of Louisiana in such lands, minerals, or resources.

2. As against the defendant State of Louisiana the United States is entitled to all the lands, minerals, and other resources underlying the Gulf of Mexico more than three geographical miles seaward from the coast line as hereinafter defined. The State of Louisiana is not entitled to any interest in such lands, minerals, or resources, and said state, its privies, assigns, lessees, and other persons claiming under it are hereby enjoined from interfering with the rights of the United States in such lands, minerals, or resources.

3. All sums now held impounded by the State of Louisiana under the Interim Agreement of October 12, 1956, as amended, derived from or attributable to the lands, minerals, or resources described in paragraph 1 hereof are hereby released to the State of Louisiana absolutely, and the State of Louisiana is hereby relieved of any obligation under said agreement to impound any sums hereafter received by it, derived from or attributable to said lands, minerals, or resources.

4. All sums now held impounded by the United States under the Interim Agreement of October 12, 1956, as amended, derived from or attributable to the lands, minerals, or resources described in paragraph 2 hereof are hereby released to the United States absolutely, and the United States is hereby relieved of any obligation under said agreement to impound any

sums hereafter received by it derived from or attributable to said lands, minerals, or resources.

5. Within seventy-five days after the entry of this decree—

(a) The United States shall pay to the State of Louisiana and other persons entitled thereto under the Interim Agreement of October 12, 1956, as amended, all sums, if any, to which the State of Louisiana or others are entitled under applicable principles of law, now held impounded by the United States under said agreement, derived from or attributable to the lands, minerals, or resources described in paragraph 1 hereof;

(b) The United States shall render to the State of Louisiana and file with the Court a true, full, accurate, and appropriate account of all sums of money required to be paid under sub-paragraph (a) of this paragraph, and of all other sums of money to which the State of Louisiana or other persons are entitled under applicable principles of law, derived by the United States either by sale, leasing, licensing, exploitation, or otherwise from or on account of any of the lands, minerals, or resources described in paragraph 1 hereof for which the United States has not heretofore accounted under paragraph 7(d) of the Supplemental Decree of December 13, 1965;

(c) The State of Louisiana shall pay to the United States or other persons entitled thereto under the Interim Agreement of October 12, 1956, as amended, all sums, if any, to which the United States or other persons are entitled under applicable principles of law,

now held impounded by the State of Louisiana under said agreement, derived from or attributable to the lands, minerals, or resources described in paragraph 2 hereof;

(d) The State of Louisiana shall render to the United States and file with the Court a true, full, accurate, and appropriate account of all sums of money required to be paid under sub-paragraph (c) of this paragraph, and of all other sums of money to which the United States or other persons are entitled under applicable principles of law, derived by the State of Louisiana, either by sale, leasing, licensing, exploitation, or otherwise, from or on account of any of the lands, minerals, or resources described in paragraph 2 hereof for which the State of Louisiana has not heretofore accounted under paragraph 7(b) of the Supplemental Decree of December 13, 1965.

6. In making the accountings required by paragraph 5 hereof, each party shall furnish or make available to the other official descriptions or maps of the lease areas involved, sufficient to identify their boundaries with precision in relation to the Louisiana Plane Coordinate System, South Zone, and such other information as may be necessary to support the accounting.

7. Within sixty days after receiving the account provided for by paragraph 5(b) or 5(d) hereof, either party may serve on the other and file with the Court its objections thereto. Thereafter, either party may move the Court to settle the account so objected to. If neither party files such an objection within sixty days, then each party shall forthwith pay to any third person

any amount shown by such accounts to be payable by it to such person, and the party whose obligation to the other party is shown by such accounts to be the greater shall forthwith pay to the other party the net balance so shown to be due. If objections are filed but any undisputed net balance is shown which will be due from one party to the other party or to any third person regardless of what may be the ultimate ruling of the objections, the party so shown to be under any such obligation shall forthwith pay each such undisputed balance to the other party or other person so shown to be entitled thereto.

8. (a) For a period of two years from the effective date of this decree both parties shall continue to recognize as a single lease for all purposes any existing lease covering lands, minerals, or resources located within any of the four zones established by the Interim Agreement of October 12, 1956, that as a result of this decree now covers lands, minerals, or resources, part of which are hereby awarded and confirmed to the United States and part of which are hereby awarded and confirmed to the State of Louisiana. Each party shall be entitled to receive from the lessee all payments hereafter due under said lease to the extent that they are derived from or attributable to such part of the lands, minerals, or resources covered by the lease as are awarded to it and hereafter shall administer the lease as to such part. Nothing contained in this paragraph shall be construed as relieving any lessee of its duty to develop reasonably the lands, minerals, or resources covered by the lease.

(b) With respect to any existing lease issued by

one party covering lands, minerals, or resources which are not located in the disputed zones as defined by the Interim Agreement of October 12, 1956, as amended (as modified by the Supplemental Decree of December 13, 1965), and which as a result of this decree are determined to be owned wholly by the other party, the party to whom such lands, minerals, or resources are awarded and confirmed shall recognize such lease for all purposes and shall be entitled to receive from the lessee all benefits hereafter accruing under such lease.

(c) As soon as practicable after the effective date of this decree each party shall establish appropriate procedures for the ratification and validation of any existing lease, or portion thereof, for which specific validation is not provided in the Interim Agreement of October 12, 1956, as amended, or by the applicable laws of the United States or the State of Louisiana.

9. For purposes of applying the conclusions announced in this Court's decision, herein, the demarcation of the coast line shall be by means of points depicted on the series of 54 maps accompanying the "Report of the Determination of the Contact Line of Mean Low Water on the Gulf of Mexico with the Mainland and Adjacent Islands of the State of Louisiana by a Committee Representing the U. S. Dept. of Interior and a Committee Representing the State of Louisiana," as modified to show the seaward limits of harbors and harbor works and to correct, by appropriate evidence, errors in the location of the mean low-water line.

10. For the purpose of delimiting with precision

the lines described in paragraphs 1 and 2 hereof the coast line (omitting portions that do not affect the grant of the Submerged Lands Act) is defined by points on the mean low-water line and by straight lines between these points, as hereinafter set forth. Where straight lines are indicated, they are either across entrances to inland waters or between points on the low-water line, selected so that lines between them generally will not depart more than fifty feet from the actual line of mean low-water. Only those portions of this description which fall within the lateral boundaries of Louisiana are to be considered as part of the coast line of Louisiana. Points are identified by coordinates in the Louisiana Plane Coordinate System, South Zone.

The coast line of Louisiana is as follows:

(a) Beginning at a point on the mean low-water line at the easternmost extremity of the westernmost island of the Ship Island couplet, at X=2,759,565.13; Y=571,621.89, Lat. 30°, 13′ N.; Long. 88° 55′ 42″ W., thence along a straight line to the northernmost extremity of the mean low-water line of the Chandeleur Island Chain, at X=2,775,787; Y=513,796, thence in a general southerly direction by successive straight lines along the low-water mark and crossing entrances to inland waters through the points

X=2,777,512;	Y=513,071
2,779,032;	512,013
2,780,766;	510,417
2,782,059;	508,914
2,784,689;	505,455

2,788,518;	498,898
2,790,051;	496,115
2,791,690;	491,970
2,794,789;	481,712
2,796,202;	475,864
2,797,209;	468,763
2,797,456;	463,898
2,797,455;	458,119
2,797,067;	452,190
2,795,853;	442,333
2,794,722;	436,006
2,793,260;	430,155
2,790,415;	420,878
2,788,165;	414,646
2,786,724;	410,834
2,783,250;	403,219
2,779,673;	397,140
2,777,922;	394,224
2,776,487;	392,403
2,774,670;	390,293
2,773,972;	389,724
2,772,541;	387,391
2,770,599;	383,887
2,768,775;	381,521
2,768,031;	380,244
2,766,408;	378,524
2,761,138;	371,491
2,758,093;	367,862
2,757,465;	366,796
2,755,709;	364,596
2,755,015;	363,480

2,749,221;	357,797
2,746,309;	355,438
2,744,222;	354,125
2,743,352;	353,794
2,742,583;	353,754

to the point X=2,727,653; Y=334,120 at the easternmost extremity of Grand Gosier Island;

(b) A straight line from the easternmost extremity of Grand Gosier Island, at X=2,727,653; Y=334,120, southerly across Isle au Breton Bay for a distance of 21.3 miles to the easternmost island off North Pass, at X=2,752,010; Y=205,475;

(c) A series of straight lines drawn so as to encompass that portion of the Mississippi River-Gulf Outlet Dredged Channel extending beyond the above line, commencing at the point X=2,736,216.18; Y=288,892.26 and continuing along the outer edges of the dredged channel through the points

X=2,744,961.28	Y=283,946.87
2,744,665.93	283,424.60

to the point X=2,736,362.33; Y=288,120.32;

(d) Points on the mean low-water line on the outermost islands and low-tide elevations off North Pass at

X=2,755,325;	Y=204,680
2,755,178;	203,815
2,754,925;	203,475;

(e) Points on the mean low-water line on the

outermost islands and low-tide elevations off Pass a Loutre at

X=2,754,100;	Y=186,915
2,754,263;	186,316
2,753,885;	183,460
2,752,470;	182,170
2,751,045;	181,305
2,750,586;	181,270;

(f) From a point on the mean low-water line of the southernmost island off Pass a Loutre, at X= 2,751,045; Y=181,305, by straight line in a southwesterly direction across the bay for a distance of 6.9 miles to a point on the mean low-water line of the outermost island off Southeast Pass, at X=2,724,850; Y=148,150;

(g) Points on the mean low-water line on islands and low-tide elevations off Southeast Pass at X= 2,726,951; Y= 150,846 and X=2,726,105; Y=148,530;

(h) From a point on the mean low-water line of the outermost island off Southeast Pass, at X=2,724,-850; Y=148,150, by straight line in a southwesterly direction across Garden Island Bay for a distance of 5.4 miles to a point on the mean low-water line of the southern extremity of the eastern jetty at South Pass, at X=2,702,461; Y=124,148;

(i) A straight line from X=2,702,461; Y=124,-148 to the southern extremity of the western jetty at South Pass, at X=2,701,735; Y=123,905;

(j) A series of straight lines drawn so as to encompass the outermost permanent harbor works, in-

luding the dredged channel extending seaward from outh Pass, commencing at the point X=2,702,463.34; =124,136.87 and continuing along the outer edges of he dredged channel through the points

X=2,707,907.44	Y=121,614.61
2,707,655.21	121,070.20

o the point X=2,702,038.71; Y=123,672.33;

(k) A point on the mean low-water line on an sland off South Pass at X=2,699,435; Y=118,600;

(*l*) From the southern extremity of the mean low-ater line of the southwesternmost island off South ass at X=2,697,850; Y=117,200, southwesterly by straight line across East Bay for a distance of 15.4 iles to the southern extremity of the eastern jetty t Southwest Pass, at X=2,609,180; Y=91,445;

(m) A straight line from X=2,609,180; Y=91,-45 to the southern extremity of the western jetty at outhwest Pass, at X=2,607,290; Y=93,040;

(n) A series of straight lines drawn so as to en-mpass the outermost permanent harbor works, in-uding the dredged channel extending seaward from outhwest Pass, commencing at the point X=2,608,-66.22; Y=91,374.90 and continuing along the outer lges of the submerged channel through the points

X=2,608,854.83	Y=84,425.46
2,608,254.88	84,417.81

the point X=2,608,159.64; Y=91,887.20;

(o) From the southernmost extremity of the estern jetty of Southwest Pass at X=2,607,290; Y=

93,040 across West Bay to the point X=2,615,450; Y=157,770;

(p) Thence along the mean low-water line by a succession of straight lines through the points

X=2,615,135;	Y=159,890
2,614,790;	160,765
2,614,865;	161,005
2,613,550;	164,745
2,613,585;	166,700
2,613,485;	167,600
2,613,960;	170,145
2,614,070;	171,910
2,609,880;	177,025
2,608,270;	178,325
2,607,710;	178,665

to the point X=2,606,370; Y=180,190;

(q) A point on the mean low-water line on the mainland at X=2,602,020; Y=183,550;

(r) From a point on the mean low-water line at X=2,598,335; Y=196,450, thence along the mean low-water line and across entrances to inland waters by a succession of straight lines through the points

X=2,594,900;	Y=199,935
2,593,875;	201,260
2,593,340;	201,660
2,589,100;	204,125
2,587,400;	205,250
2,585,000;	206,975
2,583,750;	207,060
2,576,450;	210,023

2,576,174;	209,790
2,575,992;	210,090
2,574,890;	210,450
2,574,712;	210,767
2,571,725;	211,744
2,568,736;	212,548
2,566,991;	212,986
2,565,940;	212,988
2,563,010;	214,045
2,562,149;	214,046
2,561,385;	214,258

to the point X=2,556,172; Y=215,383;

(s) From the southern tip of the eastern jetty of Empire Canal at X=2,550,402; Y=216,158 along a straight line of 24 miles length westerly to the point X=2,406,889.83; Y=189,733.09;

(t) A series of straight lines drawn so as to encompass that portion of the dredged channel extending from the Empire Canal beyond the above line, commencing at the point X=2,550,146.46; Y=216,110.95 and continuing along the outer edges of the dredged channel through the points

X=2,549,736.39;	Y=213,847.04
2,549,637.99;	213,864.86

to the point X=2,550,041.25; Y=216,091.58;

(u) Thence along the mean low-water line by a succession of straight lines in a southwesterly direction through the points

X=2,398,175;	Y=182,359
2,393,610;	178,130

2,385,833;	171,938
2,381,527;	168,671
2,376,521;	164,696
2,374,875;	163,200
2,373,613;	162,597
2,369,709;	160,120
2,367,695;	158,943
2,365,337;	157,918
2,364,392;	157,349
2,363,585;	157,549
2,362,830;	157,339

to the point X=2,356,733; Y=154,323;

(v) A point on the mean low-water line of a low-tide elevation at X=2,376,485; Y=164,409;

(w) From a point on the mean low-water line at the tip of the eastern jetty at Belle Pass, at X=2,354,-070; Y=152, 599, thence westerly to a point on the tip of the western jetty at Belle Pass, at X=2,353,875; Y=152,659;

(x) A series of straight lines drawn so as to encompass the dredged channel extending seaward from Belle Pass, commencing at the point X=2,353,666.60; Y=153,343.55 and continuing along the outer edges of the dredged channel through the points

X=2,352,929.72;	Y=150,130.52
2,352,637.32;	150,197.58

to the point X=2,353,389.42; Y=153,477.07;

(y) From a point on the mean low-water line at X=2,347,871; Y=153,564, along the mean low-

water line and across intersecting water entrances by a succession of straight lines through the points

X=2,342,108;	Y=151,526
2,339,651;	150,598
2,337,450;	149,987
2,335,471;	149,301
2,327,933;	146,251
2,322,466;	144,396
2,320,164;	143,811
2,319,608;	143,421
2,317,663;	142,869
2,313,902;	141,865
2,312,204;	141,813

to the eastern natural entrance point of the Timbalier-Terrebonne Bay complex, at X=2,311,205.47; Y=141,-867.20;

(z) Thence across the Timbalier-Terrebonne Bay complex by straight lines through the points

X=2,298,538;	Y=139,073
2,296,041;	138,519
2,182,166;	135,368

to the western natural entrance point of the Timbalier-Terrebonne Bay complex, at X=2,170,035; Y=135,-500;

(aa) A series of straight lines drawn so as to encompass that portion of the Houma Navigation Canal extending beyond the above line, commencing at the point X=2,243,706.34; Y=137,070.87 and continuing along the outer edges of the dredged channel through the points

X=2,243,922.18; Y=135,015.67
2,243,773.00; 135,000.00

to the point X=2,243,555.95; Y=137,066.68;

(bb) Thence along the mean low-water line and across intersecting water entrances by a succession of straight lines through the points

X=2,169,680;	Y=135,315
2,167,836;	134,922
2,164,477;	134,753
2,162,430;	135,112
2,157,920;	135,521
2,148,929;	136,962
2,147,751;	136,599
2,143,589;	136,276
2,139,529;	136,276
2,138,231;	136,387
2,134,210;	136,726
2,133,089;	136,940
2,128,819;	138,694
2,126,697;	139,353
2,122,523;	140,238
2,118,829;	141,971
2,118,065;	142,532

to the southern natural entrance point of Caillou Bay, at X=2,117,317; Y=143,491;

(cc) Thence by straight line across the bay to the northern natural entrance point at X=2,076,730; Y=189,630;

(dd) A straight line from the point X=2,076,291; Y=189,799 to the point X=2,075,295; Y=190,530;

(ee) A point on the mean low-water line of the mainland, at X=2,071,131; Y=195,080;

(ff) From a point on the mean low-water line of the mainland at X=2,062,055; Y=199,555, thence by a succession of straight lines through the points

X=2,058,700;	Y=200,495
2,057,430;	200,980
2,055,610;	201,415
2,054,750;	201,215
2,053,190;	201,320
2,051,090;	201,230
2,049,230;	201,255
2,045,960;	201,470
2,042,475;	201,660
2,037,075;	203,200
2,035,775;	203,405
2,033,385;	204,235
2,029,630;	205,680
2,026,640;	206,660
2,023,042;	208,270
2,021,155;	208,850
2,017,453;	210,475
2,016,243;	211,245
2,014,384;	213,268
2,010,960;	216,566
2,008,873;	218,388
2,008,058;	219,434
2,006,991;	221,401
2,006,256;	222,432
2,004,384;	224,474
2,000,030;	228,573

1,998,568;	230,370
1,996,506;	233,983

to the point X=1,995,220; Y=235,805;

(gg) From Point au Fer on Point au Fer Island at X=1,993,420; Y=241,930, thence along the extension of the land form from Point au Fer by a succession of straight lines through the points

X=1,990,280;	Y=241,863
1,989,740;	241,417
1,989,300;	241,522
1,987,818;	240,892

to the eastern natural entrance point of Atchafalaya Bay at X=1,987,371; Y=241,272, thence to a point on the mean low-water line of the western natural entrance point, at X=1,855,055; Y=296,154;

(hh) A series of straight lines drawn so as to encompass the entirety of the outermost permanent harbor works, including the dredged channel extending seaward from Atchafalaya Bay in a southwesterly direction, commencing at the point X=1,976,021.15; Y=245,979.69 and continuing along the outer edges of the channel through the points

X=1,941,219.91;	Y=201,075.80
1,941,062.05;	201,198.60

to the point X=1,975,829.57; Y=246,059.15;

(ii) Points on the mean low-water line on islands and low-tide elevations at

X=1,933,172;	Y=264,238
1,924,399;	268,936

1,914,373;	270,380
1,896,827;	275,747
1,882,306;	270,590
1,872,418;	277,460
1,844,021;	276,962
1,843,467;	275,912
1,835,344;	270,839
1,834,019;	270,301;

(jj) From the eastern natural entrance point of Outer Vermilion Bay, at X=1,834,019; Y=270,301, thence by straight line across the bay to Tigre Point at X=1,708,756; Y=318,661;

(kk) Thence along the mean low-water line by a succession of straight lines through the points

X=1,706,790;	Y=317,870
1,703,080;	316,885
1,700,680;	316,390
1,696,359;	315,965
1,692,568;	315,990

to the point X=1,690,019.17; Y=316,167.28;

(*ll*) A series of straight lines drawn so as to encompass the dredged channel extending seaward at this point commencing at X=1,690,019.17; Y=316,-167.28 and continuing along the outer edges of the dredged channel through the points

X=1,687,089.91;	Y=299,395.88
1,686,843.64;	299,438.89

to the point X=1,689,770.45; Y=316,196.29;

(mm) Thence along the mean low-water line by a succession of straight lines through the points

X=1,687,270;	Y=316,510
1,678,545;	318,408
1,675,346;	319,196
1,671,018;	320,396
1,669,012;	321,069
1,667,091;	321,595
1,665,833;	321,916
1,663,290;	322,457
1,659,960;	323,169
1,658,887;	323,134
1,657,050;	323,540
1,655,896;	323,305
1,653,430;	323,751
1,651,294;	324,333
1,650,220;	324,644
1,649,308;	324,684
1,648,656;	324,985
1,639,027;	326,645
1,629,147;	327,939
1,622,420;	328,555
1,617,090;	329,300
1,616,760;	329,510
1,613,190;	329,780
1,609,300;	330,480
1,608,080;	330,835
1,605,965;	331,030
1,605,565;	331,280
1,603,140;	331,540
1,600,765;	332,140

1,599,740;	332,390
1,595,210;	333,090
1,594,770;	333,270
1,594,075;	333,290
1,593,910;	333,645
1,593,010;	333,520
1,591,685;	333,785
1,589,460;	334,525
1,586,780;	335,220
1,581,450;	336,800
1,576,170;	338,670
1,571,630;	340,335
1,570,480;	340,905
1,567,695;	341,990
1,566,890;	342,490
1,566,375;	342,810
1,564,160;	343,480
1,562,680;	344,195
1,558,720;	345,375
1,555,105;	346,865
1,553,840;	347,150
1,551,670;	348,170
1,550,645;	349,050
1,546,740;	350,600
1,546,195;	350,910
1,539,270;	354,040
1,536,505;	355,610
1,536,245;	356,080
1,535,690;	356,465
1,532,515;	357,575
1,531,970;	358,030

1,531,240;	358,190
1,524,550;	361,675
1,513,280;	366,930
1,502,470;	372,625
1,496,700;	375,770
1,492,040;	378,110
1,489,725;	379,370
1,479,730;	384,090
1,471,240;	387,390
1,467,685;	388,820
1,460,435;	391,260
1,454,105;	393,050
1,449,935;	394,700
1,444,715;	396,930
1,441,485;	398,150

to the point X=1,436,899; Y=399,820;

(nn) From a point on the mean low-water line on a low-tide elevation at X=1,431,526; Y=400,742; thence westerly by straight lines through the point X=1,431,465; Y=400,740, to the point X=1,429,020; Y=401,485;

(oo) From a point on the mean low-water line on the mainland at X=1,429,035; Y=401,760, thence by a succession of straight lines through the points

X=1,425,600;	Y=402,610
1,424,630;	403,175
1,416,365;	405,700
1,410,175;	407,090
1,402,525;	408,365
1,397,220;	408,870

1,392,000;	409,180
1,391,954;	409,243
1,386,636;	409,216
1,383,990;	409,136
1,380,235;	408,500
1,376,515;	407,966

to the point X=1,372,945; Y=406,862;

(pp) From a point on the mean low-water line at the tip of Calcasieu Pass eastern jetty, at X=1,363,-392; Y=397,870, thence westerly by straight line to a point on the mean low-water line of the southern extremity of the western jetty at X=1,362,416; Y=397,822;

(qq) A series of straight lines drawn so as to enclose the outermost permanent harbor works, including the dredged channel, commencing at the point X=1,363,371.72; Y=396,905.54 and continuing along the outer edges of the channel through the points

X=1,368,765.69;	Y=354,252.77
1,398,875.57;	314,889.55
1,398,880.11;	291,736.55
1,398,080.11;	291,735.62
1,398,031.17;	314,618.35
1,367,998.93;	353,938.57

to the point X=1,362,628.38; Y=396,805.62;

(rr) From a point on the mean low-water line on the mainland at X=1,354,310; Y=403,875, thence along the mean low-water line by successive straight lines through the points

X=1,351,162;	Y=404,620
1,341,917;	405,967
1,333,745;	406,888
1,328,473;	407,126
1,323,205;	407,138
1,317,944;	407,045
1,312,617;	406,742
1,307,312;	406,260
1,296,747;	405,049
1,291,413;	404,205
1,286,154;	403,467
1,280,760;	402,836
1,275,467;	402,375
1,264,910;	401,500
1,259,600;	400,971
1,254,211;	400,226
1,248,971;	399,421
1,243,670;	398,400
1,240,260;	397,840
1,235,668;	396,741
1,233,256;	395,989
1,228,846;	394,497
1,228,772;	394,775
1,226,444;	393,922
1,225,768;	393,281
1,225,421;	393,370
1,219,698;	390,746
1,219,065;	390,227
1,217,536;	389,445
1,217,089;	389,513
1,216,582;	389,216

to the point X=1,215,615; Y=388,263;

(ss) From a point on the mean low-water line of the eastern Sabine Pass jetty, at X=1,206,795; Y=378,672, thence southerly along the jetty to the southern extremity of the eastern jetty at X=1,209,-227; Y=364,245, thence by straight line to the southern extremity of the western jetty at Sabine Pass at X=1,207,613; Y=363,715;

(tt) A series of straight lines drawn so as to encompass the dredged channel extending seaward at this point commencing at X=1,208,828.46; Y=364,-135.86 and continuing along the outer edges of the dredged channel through the points

X=1,215,363.92;	Y=347,448.78
1,258,030.73;	304,261.18
1,257,681.13;	287,097.20
1,256,881.29;	287,113.48
1,257,223.97;	303,942.46
1,214,679.08;	347,003.68

to the point X=1,208,083.54; Y=363,844.14.

11. The Court retains jurisdiction to entertain such further proceedings, enter such orders, and issue such writs as may be necessary to give proper force and effect to prior decrees herein, or to this decree.